

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20060420

1. ACTION REQUESTED/PURPOSE: Adopt a resolution amending the Coconut Point DRI Development Order to extend the buildout date by one year to December 31, 2007.

2. WHAT ACTION ACCOMPLISHES: Florida Statutes requires Board approval of amendments to developments of regional impact. If adopted, the resolution will change the buildout date for the Coconut Point DRI from December 31, 2006 to December 31, 2007.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: A12A		5. Meeting Date: 08-01-2006	
6. Agenda: <input type="checkbox"/> Consent	7. Requirement/Purpose: (specify) <input checked="" type="checkbox"/> Statute 380.06(19)(e)(2)	8. Request Initiated: Commissioner	
<input checked="" type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance LDC § 34-145(d)(1)c	Department	DCD and County Attorney
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	Division	Zoning and Land Use
<input type="checkbox"/> Public	<input type="checkbox"/> Other	By: <i>[Signature]</i> Dawn E. Perry-Lehnert Assistant County Attorney	
<input type="checkbox"/> Walk-On			

9. Background:

The Coconut Point DRI was adopted by the Board of County Commissioners in October 2002. Since that time, the development order has been amended one other time in February 2005. On May 26, 2006, Coconut Point Developers, LLC filed a Notice of Proposed Change to amend the Coconut Point DRI Development Order to extend the buildout date by one year to December 31, 2007.

The Lee County Land Development Code states that after staff review and recommendation, certain amendments to the DRI development orders, may proceed directly to the Board of County Commissioners for consideration during a regular weekly Board meeting as part of the Administrative Agenda. The Board may adopt this amendment based upon the staff recommendation. Hearing Examiner review is not required.

(continued on page 2)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
				<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

[Handwritten notes and stamps]

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
6:20-06 4:15 PM
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
6/29/06 4PR

Blue Sheet #: 20060420
Page #: 2
Subject: Coconut Point DRI Development Order

The request was reviewed by the Regional Planning Council (RPC) on June 15, 2006. A copy of the RPC Recommendation is attached. The attached draft DRI Development Order serves to extend the buildout date to December 31, 2007; and, provides that no further extensions of the buildout date will be permitted unless the applicant submits a complete cumulative traffic reanalysis.

Staff supports the proposed amendment to the DRI Development Order. The change will not create a likelihood of additional regional impact. Accordingly, staff recommends adoption of the attached resolution amending the Coconut Point DRI Development Order.

Attachment:

1. RPC Review and Recommendation.
2. Resolution amending the DRI Development Order and adopting the codification of the Second Amendment to the Coconut Point DRI Development Order.

cc: Mary Gibbs, Director, DCD
Pam Houck, Director, Zoning Division
Chip Block, Principal Planner, DCD
Matt Uhle, Esquire, Knott, Consoer, Ebelini, Hart & Swett

Southwest Florida Regional Planning Council Meeting

Thursday, June 15, 2006

9:00 a.m.

Southwest Florida Regional Planning Council

1926 Victoria Avenue, Fort Myers

(239) 338-2550

[Click Here For a Map](#)

AGENDA

INVOCATION - Commissioner Rue Berryman

PLEDGE OF ALLEGIANCE

ROLL CALL - Ms. Nichole Gwinnett

1. **AGENDA**

2. **MINUTES OF May 18, 2006**

3. **CONSENT AGENDA**

(a) Developments of Regional Impact (DRIs)

1. Coconut Point DRI - NOPC

(b) Local Government Comprehensive Plan Amendments

1. City of Sarasota Comprehensive Plan Amendments (DCA 06-1)

(c) Intergovernmental Coordination and Review

(d) Financial Statement for May 31, 2006

(e) IC&R and Public Transportation Coordination JPA for the Lee County MPO

4. **EMERGING REGIONAL ISSUES**

(a) Florida Turnpike Enterprise District Presentation – Mr. Randy Fox, Florida’s Turnpike Enterprise

(b) Fertilizer Connection to Red Tide Discussion – Mr. David Burr

(c) Council’s 2006 Retreat Update – Mr. Ken Heatherington

(d) Council Subcommittee Reports

- Council’s Budget Committee Report – Ms. Laura Holquist

- Council's Caloosahatchee River Basin Board Report – Vice Mayor Mick Denham

(e) Legislative Issues Update – Mr. Ken Heatherington

- Affordable Housing

5. PUBLIC COMMENTS

6. DIRECTOR'S COMMENTS

- Council's Calendar of Meetings and Events

- Estero Bay Agency on Bay Management Minutes

7. STATE AGENCIES COMMENTS/REPORTS

- FDEP

- FDOT

- SFWMD

- SWFWMD

- Economic Development

- School Boards

8. COUNSEL'S COMMENTS

9. COUNCIL MEMBERS' COMMENTS

10. ADJOURNMENT

NEXT MEETING DATE: August 17, 2006

NOTES:

The Council's July Meeting has been cancelled.

The Council's Caloosahatchee Basin Board Subcommittee is scheduled for the Council meeting.

**COCONUT POINT
(aka Simon Suncoast)
DRI # 09-2001-153
NOTICE OF PROPOSED CHANGE**

Background:

On January 17, 2002, the Council recommended conditional approval of the Simon Suncoast (currently Coconut Point) DRI Application for Development Approval. The approval was subject to regional conditions relating to Affordable Housing, Energy, Stormwater Management, Transportation, Vegetation and Wildlife/Wetlands, Hurricane Preparedness, and Consistency with the Local Comprehensive Plan and Strategic Regional Policy Plan.

On October 21, 2002, the Board of Lee County Commissioners approved the Coconut Point (formerly the Simon Suncoast Development of Regional Impact) Development Order. A copy of the development order was rendered to the SWFRPC on December 19, 2002. Staff review of the development order found that it was consistent with all regional issues and recommendations identified within the Council's Official Recommendations.

The 482.4 acre Coconut Point Development of Regional Impact (DRI) is located in unincorporated south central Lee County at the intersection of U.S. 41 and Coconut Road (see Exhibit A & Exhibit A1). The Coconut Point DRI was to consist of 1,450,000 gross leaseable square feet of regional mall, 350,000 gross leaseable square feet of general office, 100,000 gross leaseable square feet of medical office, 600 hotel rooms, 1,000 multi-family units and a 200 unit assisted living facility. The DRI also includes 32.7 acres of conservation areas, 47.1 acres of lakes, 50.2 acres of road right-of-ways, and 11.6 acres of green area/open space (see Master Development Plan). The proposed plan has been described as a "*unique outdoor retail mall in the form of a small urban downtown*".

The Project is planned to be constructed in one phase, with an anticipated build out in the year 2006. However, the Project will be developed as three Areas: Area 1, the North Village; Area 2, the Town Center; and Area 3, the South Village.

Previous Changes:

There has been one previous amendment to the development order for the Coconut Point Development of Regional Impact (DRI).

(1) First DO Amendment	February 07, 2005	Reduced the number of hotel rooms from 600 to 350, decreased the number of apartments from 450 to 250, and increased the number of residential condominiums from 550 to 1,000.
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Proposed Changes:

On May 26, 2006, the applicant's authorized agent, Knott, Consoer, Ebelini, Hart & Swett, P.A., submitted a Notice of Proposed Change (NOPC) on behalf of Coconut Point Developers, L.L.C. (owner and developer of the DRI), including the following proposed development order modification:

The applicant is proposing an amendment to the Coconut Point DRI Development Order for a one-year extension to the buildout and termination dates. No other revisions to the DO are included in this application. The new buildout date will be December 31, 2007.

Regional Staff Analysis:

The proposed change, an extension of the buildout for the Coconut Point DRI by less than five years, is considered not a substantial deviation under Section 380.06(19)(c), Florida Statutes that reads, in part,

“...An extension of less than 5 years is not a substantial deviation”.

Section II (D)(2)(b)(2)(a) of the Development Order reads in part,

“Concurrency certificates issued pursuant to this option will be effective until December 31, 2006, or for three (3) years, whichever is later; provided, however, that the concurrency certificates will be extended upon approval of an extension pursuant to Section D. 2. d(2) for the period of the extension not to exceed one year.”

The applicant must clearly demonstrate they are in compliance with Section II (D)(2)(d)(2) of the Coconut Point Development Order, which reads in part,

“If all or a part of the Regional Retail Center has received building permits prior to December 31, 2006, the Developer may choose to pay the traffic mitigation for some or all of the balance of the development through buildout in a lump sum at the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. In this case, a cumulative traffic reanalysis is not required for the portion of the balance that is mitigated as part of the original DRI Development order. This section is not intended to supercede the standard submittal requirements for a typical Notice of Proposed Change under state law.”

The applicant is proposing to delete, in its entirety, Section II (D)(2)(d)(2) of the Coconut Point Development Order. Regional staff recommends maintaining the existing language and simply changing the date from December 31, 2006 to December 31, 2007 or the applicant should submit language that ensures traffic reanalysis if the project has not been builtout on December 31, 2007.

Before the second Development Order Amendment adoption, hearing with Lee County the applicant must submit an annual monitoring report and an annual traffic monitoring report. The most recent annual monitoring report on file with the Southwest Florida Regional Planning Council (SWFRPC) was for the period from January 1, 2004 to December 31, 2004 and was received by the SWFRPC on January 31, 2005.

Character, Magnitude, Location:

The proposed change will not result in a change of character, magnitude or location for the Coconut Point DRI.

Regional Goals, Resources and Facilities:

Regional staff has examined the NOPC in order to determine the potential for adverse regional impacts and determined that the changes to the project are not substantially changing any of the previously approved project parameters and therefore is deemed consistent with the regional goals, resources, and facilities as determined through the previous Development Order and reviews.

Multi-Jurisdictional Issues:

Regional staff has not identified any adverse multi-jurisdictional impacts due to the proposed changes.

Need For Reassessment of the DRI:

By the standards set in Chapter 380.06(19)(c), F.S. the requested change is not a substantial deviation. Therefore, a complete reassessment for the Coconut Point DRI is not required.

Acceptance of Proposed D.O. Language:

The proposed development order amendment language contained within the NOPC is acceptable to regional staff assuming the recommendations above in the Regional Analysis regarding Section II (D)(2)(d)(2) are addressed.

Conclusion:

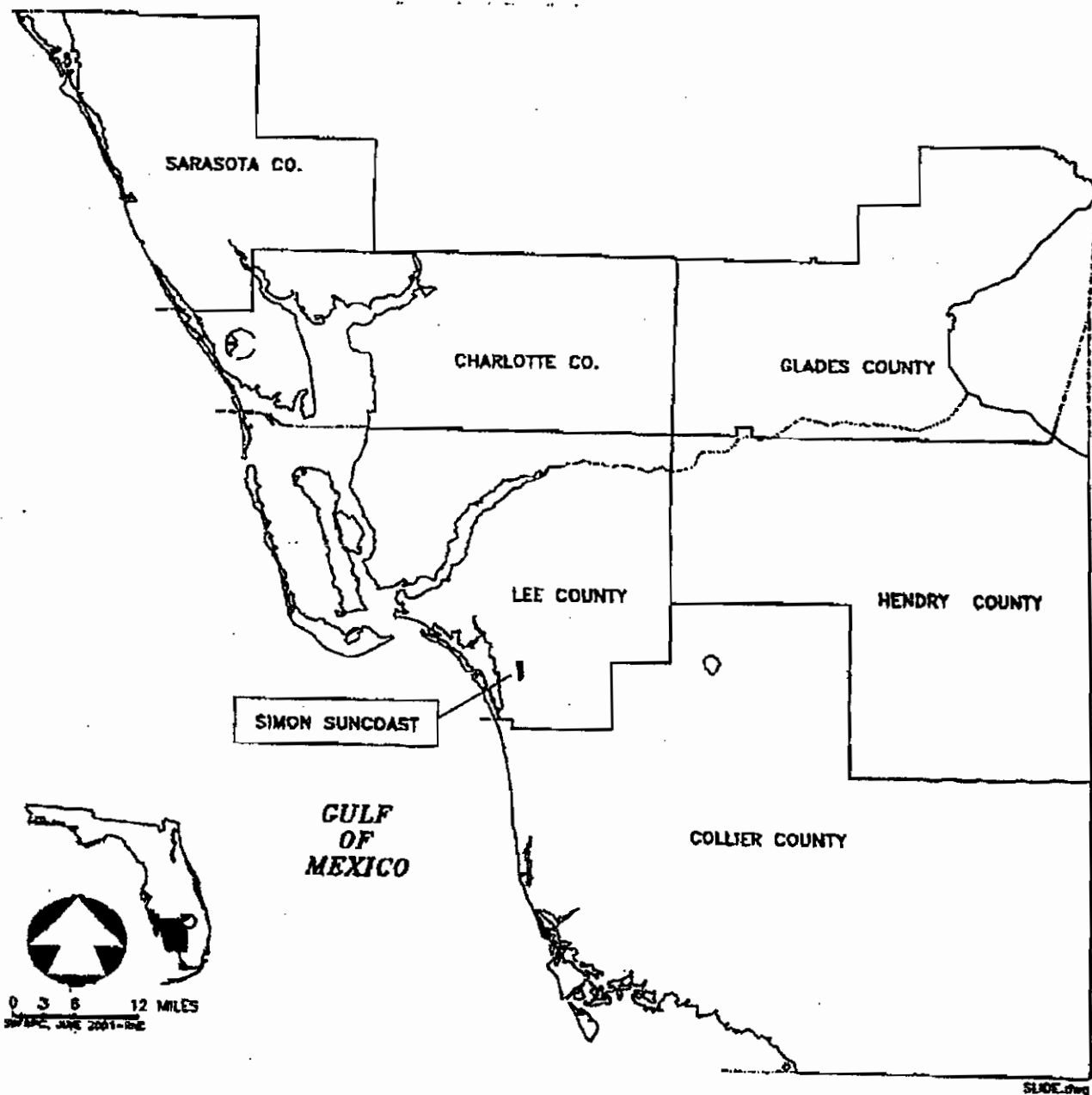
The proposed change of a buildout extension to the Coconut Point DRI will not result in any additional adverse regional impacts. The Florida Statutes clearly illustrate this proposed change is not a substantial deviation (Section 380.06(19)(c), F.S.)

RECOMMENDED ACTIONS:

1. Notify Lee County, the Florida Department of Community Affairs and the applicant that the proposed changes do not create additional regional impacts, as stated in this agenda item.
2. Request that the County provide SWFRPC staff with copies of any revised development order amendments or other materials related to any further proposed changes in order to ensure that the development order is consistent with the Notice of Proposed Change.
3. Request the applicant provide Lee County and the SWFRPC with a copy of the most recent annual monitoring report and annual traffic monitoring report as required by Section 380.06 of the Florida Statutes.
4. Request the applicant add language that mandates a complete traffic reanalysis if the entirety of the Coconut Point DRI is not built out by December 31, 2007.

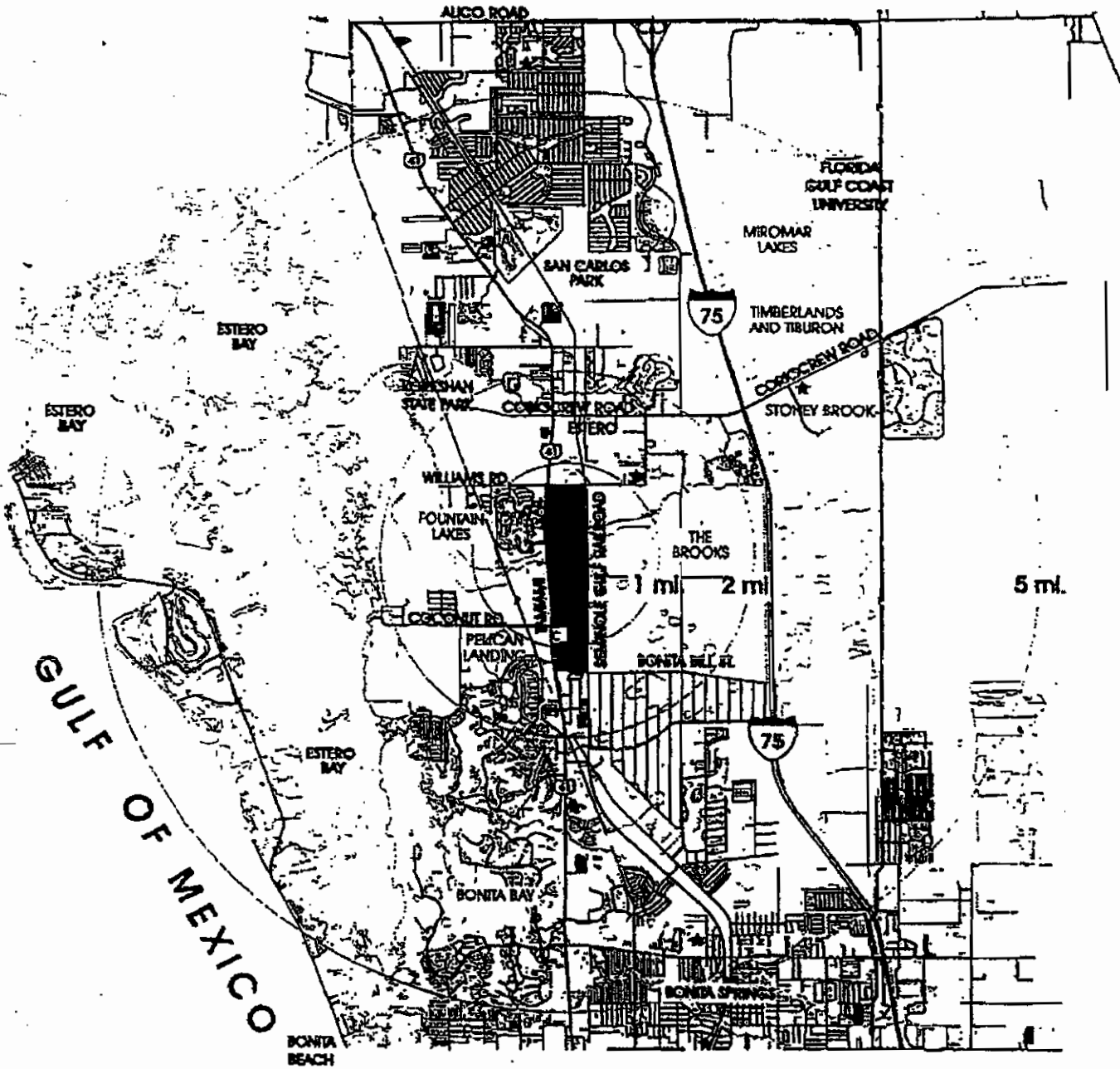
06/2006



EXHIBIT A




SIMON SUNCOAST DRI
GENERAL LOCATION MAP
SOUTHWEST FLORIDA REGION

EXHIBIT A1



September 2000 North  

Not to Scale

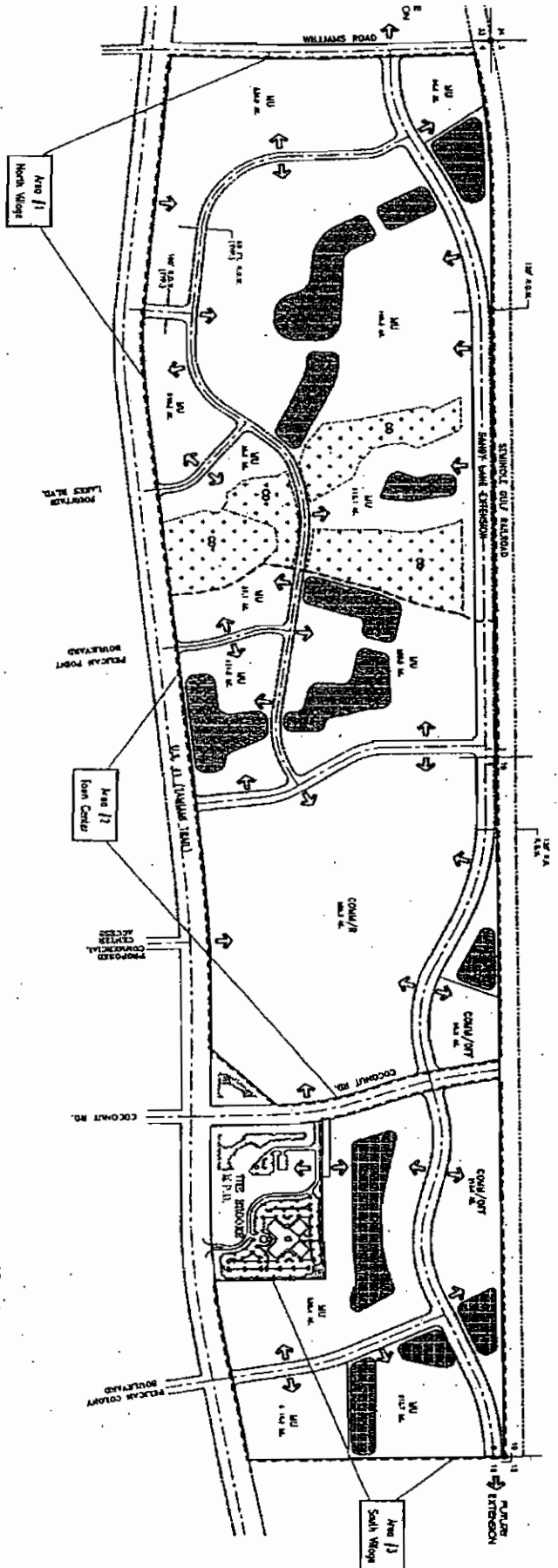
 School

Map A - General Location Map

iv

EXHIBIT B

EXHIBIT B



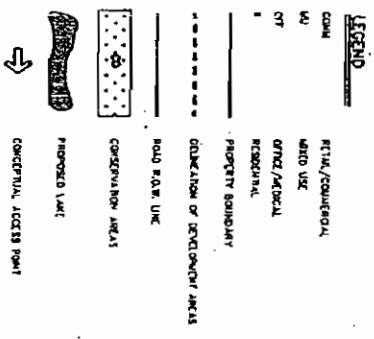
LAND USE BREAKDOWN

CONSERVATION AREAS	1317 ACRES
LOTS	1413 ACRES
PHYSICAL R.O.W.	1582 ACRES
ORIG AREA /	1118 ACRES
DEVELOPED AREAS	2348 ACRES
TOTAL	4454 ACRES

PROJECT INTENSITY

RESIDENTIAL UNITS	1,150
COMMERCIAL/ARTS (ORIGIN DEVELOPER ACRES)	1,800,000
OFFICE OFFICE (S.F.)	200,000
MEDICAL OFFICE (S.F.)	100,000
HOTEL (ROOMS)	350

- NOTES:**
1. LOCATION/CONTINGENCY OF PROPOSED LAND USE, SUCH AS LOTS, CONSERVATION AREAS, ROADS AND OTHER DATA ARE CONCEPTUALLY SHOWN AND SUBJECT TO CHANGE DURING FINAL DESIGN/FOUNDATION.
 2. THE WARD USE (W.U.) DESIGNATION CONTAINS A LIST OF RETAIL, COMMERCIAL, HOTEL, OFFICE, RESIDENTIAL, A.V. AND PUBLIC FACILITY LAND USES.



RECEIVED
 NOV 17 2004
 PERMIT COUNTER
 DRI 2004 0000-2

SIMON SUNCOAST
 MASTER CONCEPT PLAN
 MAP 'H'



6202-F Presidential Court
 Fort Myers, FL 33919
 Phone : (239) 985-1200
 Florida Certificate of Authorization No.1772
 Naples - Fort Myers - Venice - Englewood

DATE	11/15/04
BY	MSFC
REVISION	FOR THE SUBSEQUENT CHANGES
DATE	11/15/04
BY	MSFC
REVISION	FOR THE SUBSEQUENT CHANGES
DATE	11/15/04
BY	MSFC
REVISION	FOR THE SUBSEQUENT CHANGES

DRI
EXHIBIT C

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,450,000* sq. ft.	2006
Community Retail	350,000* sq. ft.	2006
Office	300,000** sq. ft.	2006
Hotel	600 <u>350</u> Rooms	2006
Residential, Multi-family	1000 <u>1250</u> du	2006
Assisted Living Facility	200 units	2006

* Gross Leasable Area

**Up to 100,000 sq. ft., may be medical office

DRI
EXHIBIT D

ANNUAL MONITORING REPORT REQUIREMENTS

The Annual Monitoring Report that must be submitted by the Developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the Developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments which are contained in the application for development approval and which have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the annual report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the annual report. The Administrative Code requires that the annual report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual-Report-1.

DRI
EXHIBIT E
Calculation of Road Impact Fee Obligation³

LAND USE	ITE LUC	UNIT	RATE	SIZE	AMOUNT
GENERAL INDUSTRIAL	130	1000 SF	\$1,681.00	0	\$ -
WAREHOUSE	150	1000 SF	\$1,198.00	0	\$ -
MINI-WAREHOUSE	151	1000 SF	\$ 419.00	0	\$ -
SINGLE-FAMILY DETACHED	210	DU	\$2,436.00	0	\$ -
MULTI-FAMILY	220	DU	\$1,687.00	1000	\$ 1,687,000.00
MOBILE HOME (PARK UNIT)/RV SITE	240	DU	\$1,221.00	0	\$ -
ACLF	252	DU	\$ 550.00	200	\$ 110,000.00
HOTEL	310	ROOM	\$1,834.00	600	\$ 1,100,400.00
TIMESHARE	310	DU	\$1,834.00	0	\$ -
GOLF COURSE	430	ACRE	\$ 711.00	0	\$ -
MOVIE THEATRE	443	1000 SF	\$5,600.00	0	\$ -
ELEMENTARY/SECONDARY SCHOOL (PRIVATE)	520	1000 SF	\$ 611.00	0	\$ -
CHURCH	560	1000 SF	\$1,402.00	0	\$ -
DAYCARE	565	1000 SF	\$3,900.00	0	\$ -
HOSPITAL	610	1000 SF	\$2,941.00	0	\$ -
NURSING HOME	620	1000 SF	\$ 824.00	0	\$ -
OFFICE UNDER 100,000 SF	710	1000 SF	\$2,254.00	100	\$ 225,400.00
OFFICE 100,000 SF AND OVER	710	1000 SF	\$1,918.00	100	\$ 191,800.00
MEDICAL OFFICE	720	1000 SF	\$6,334.00	100	\$ 633,400.00
RETAIL UNDER 100,000 SF	820	1000 SF	\$3,992.00	100	\$ 399,200.00
RETAIL 100,000 SF TO 250,000 SF	820	1000 SF	\$3,869.00	150	\$ 580,350.00
RETAIL 250,000 SF TO 500,000	820	1000 SF	\$3,634.00	250	\$ 908,500.00
RETAIL 500,000 SF AND OVER	820	1000 SF	\$3,354.00	1300	\$ 4,360,200.00
STANDARD RESTAURANT	831	1000 SF	\$8,715.00	0	\$ -
FAST FOOD RESTAURANT	834	1000 SF	\$9,886.00	0	\$ -
CAR WASH, SELF-SERVICE	847	STALL	\$7,749.00	0	\$ -
CONVENIENCE FOOD AND BEVERAGE STORE	851	1000 SF	\$8,715.00	0	\$ -
BANK	911	1000 SF	\$6,063.00	0	\$ -
TOTAL					\$10,196,250.00

³ The calculations included here are based upon the impact fee schedule effective July 1, 2000.

RESOLUTION NO. 06_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING THE COCONUT POINT DRI DEVELOPMENT ORDER.

WHEREAS, the Lee County Board of Commissioners adopted a DRI Development Order for the Coconut Point DRI on October 21, 2002 (State DRI No. 09-2001-153); and

WHEREAS, the DRI Development Order was subsequently amended on February 7, 2005; and

WHEREAS, Coconut Point Developers, LLC, has petitioned to amend the DRI Development Order to extend the buildout date one year to December 31, 2007 in accordance with DRI Condition D.2.b.(2); and

WHEREAS, the Southwest Florida Regional Planning Council staff has opined that the amendment of the DRI Development Order approvals to extend the buildout date to December 31, 2007 is a minor change as contemplated by Section 380.06(19)(e)(2)), Florida Statutes; and

WHEREAS, the proposed amendment of the Coconut Point DRI Development Order does not constitute a substantial deviation and qualifies for expedited processing pursuant to Florida Statutes §380.06(19)(e)2 and Land Development Code §34-145(d)(1)c.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

1. The above stated recitals are incorporated into this Resolution by reference.
2. The Coconut Point DRI is hereby amended as indicated by the strike through and underline in attached Exhibit A to reflect a buildout date extension of one year, from December 31, 2006 to December 31, 2007.
3. This Resolution and its exhibits constitute the Second Development Order Amendment to the Coconut Point Development of Regional Impact. All other terms and conditions of the Development Order as previously amended remain unchanged.
4. Certified copies of this Resolution and the revised DRI Development Order will be forwarded to the Southwest Florida Regional Planning Council, the Florida Department of Community Affairs, and other appropriate agencies. This amendment is rendered as of the date of transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate

proceedings, whichever time is greater. Once effective, the Notice of Adoption of this Development Order Amendment must be recorded as provided for in Chapter 380, Florida Statutes.

The motion to adopt this Resolution was offered by Commissioner _____, and seconded by Commissioner _____, and, upon poll of the members present, the vote was as follows:

Robert P. Janes
Douglas R. St. Cerny
Ray Judah
Tammara Hall
John E. Albion

DULY PASSED AND ADOPTED this _____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
Dawn E. Perry-Lehnert
Office of the County Attorney

Exhibit A: Proposed Second Amendment to the Coconut Point DRI Development Order

SECOND DEVELOPMENT ORDER AMENDMENT ¹
FOR
COCONUT POINT DRI
STATE DRI # 09-2001-153
CASE #DRI2000-00015

Let it Be Known That, pursuant to Florida Statutes §380.06, the Board of County Commissioners of Lee County, Florida, heard at a public hearing convened on October 21, 2002, the Application For Development Approval submitted by The Simon Property Group, L.P. and Oakbrook Properties, Inc., for Coconut Point DRI (originally known as Simon Suncoast DRI), a mixed use development in Lee County, consisting of approximately 482.4 +/- acres.

WHEREAS, the Board of County Commissioners of Lee County, Florida considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Staff, the Lee County Hearing Examiner, the application and sufficiency submittals, and the documents and comments made on the record in public hearing, and after full consideration of those reports, recommendations, documents and comments, the Board of County Commissioners of Lee County, Florida, adopted the Coconut Point Development of Regional Impact (DRI) Development Order; and

WHEREAS, the original Development Order for the Coconut Point DRI was approved on October 21, 2002; and

WHEREAS, the DRI Development Order was subsequently amended on February 2, 2005 to reduce the number of hotel rooms from 600 to 350, decrease the number of apartments from 450 to 250, and increase the number of residential condominiums from 550 to 1000; and

WHEREAS, On May 26, 2006 Coconut Point Developers, LLC filed a Notice of Proposed Change to amend the DRI Development Order a second time to extend the buildout date one year to December 31, 2007 as contemplated and allowed under DRI Conditions II.D.2.b(2)(a) and D.2.d; and

WHEREAS, the Southwest Florida Regional Planning Council staff has opined that the amendment of the DRI development order approval to extend the buildout date to December 31, 2007 as contemplated under Condition D.2.b(2)(a) constitutes a minor change as contemplated by Florida Statutes §380.06(19)(e)(2)j; and

WHEREAS, the proposed change to the Coconut Point DRI Development Order does not constitute a substantial deviation and qualifies for expedited processing pursuant to Florida Statutes §380.06(19)(e)(2) and Land Development Code §34-145(d)(1)c.

¹ This is a codification and restatement of the DRI Development Orders rendered with respect to the Coconut Point DRI, including actions taken on October 21, 2002, and February 7, 2005, and _____.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, that the Development Order for the Coconut Point DRI is hereby amended as follows:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,450,000 gross leasable square feet of retail/regional mall (Regional Retail Center), 350,000 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 300,000 square feet of office, of which no more than 100,000 square feet may be medical office, 350 hotel rooms, 1,250 multi-family units (consisting of 250 apartment units, and 1000 residential condominium units) and a 200 unit assisted living facility. The project will include 32.7 acres of conservation areas, 47.1 acres of lakes, 50.2 acres of road rights-of-way and 11.6 acres of green area/open space.

Water and wastewater treatment will be provided by Bonita Springs Utilities.

The project phasing schedule consists of one phase with buildout in ~~2006~~ 2007.

B. The terms of this Development Order apply to the property located and described in attached Exhibit A.

C. The property is zoned Mixed Planned Development (MPD). Undeveloped portions of the property are currently in active agricultural use.

D. The Application for Development Approval (ADA) is consistent with the requirements of §380.06, Florida Statutes, and was found sufficient by the Southwest Florida Regional Planning Council on January 17, 2001.

E. The development is not located in an area designated as an Area of Critical State Concern under the provision of §380.05, Florida Statutes.

F. The development will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan. The development is consistent with the State Comprehensive Plan if developed in accordance with the conditions set forth herein.

G. The proposed Development Order Amendment has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of the report and recommendations adopted by that body and subsequently forwarded to Lee County in accordance with §380.06, Florida Statutes. The development, as proposed in the ADA, subsequently amended by the Notice of Proposed Change, and modified by this

Development Order Amendment, is generally consistent with the report and recommendations of the SWFRPC pursuant to §380.06(11), Florida Statutes.

H. The development is located in the Urban Community and Wetlands future land use categories. The project, as proposed and conditioned herein, is consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code (LDC).

I. The conditions set forth below meet the criteria found in §380.06(15)(d), Florida Statutes.

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL

NOW THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled that the Development of Regional Impact Application for Development Approval submitted on behalf of Simon Property Group, L.P. and the Oakbrook Properties, Inc., for the project known as the Coconut Point DRI, originally approved October 21, 2002, is hereby amended subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to Simon Property Group, L.P., Oakbrook Properties, Inc., and Coconut Point Developers, LLC, and includes all successors or assigns, and all references to County Ordinances or other regulations, including future amendments.

A. AFFORDABLE HOUSING

1. *150 Affordable Housing Units (\$600,000).*

- a. The Developer must provide, either directly or through third parties, 150 units (combined total) of affordable housing for very low, low, and moderate-income persons within the identified DRI housing assessment area on or before December 31, 2006.
- b. In the event the Developer does not provide all of the 150 units required above prior to December 31, 2006, the Developer may satisfy the remaining affordable housing obligation by paying \$4,000 (\$600,000 divided by 150 units) for each unit of the shortfall to the Lee County Affordable Housing Trust Fund.

2. *University Student Housing (\$400,000).*² In addition to the above, the Developer will subsidize University student housing by giving \$400,000 to the Florida Gulf Coast University prior to the issuance of the first development order allowing vertical construction within the DRI (excepting any public uses mandated by this Development Order). These funds must be specifically earmarked for University student housing.

² This requirement was satisfied in October 2004.

B. ENERGY

The Developer must incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or insure that the following features are implemented through deed restrictions or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by documents detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, those documents must be approved by the County Attorney's Office prior to recording.

These features are:

1. A bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project and also along Sandy Lane. This system will be consistent with LDC regulations.
2. Bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
3. Bus stops, shelters and other passenger and system accommodations for a transit system to service the project area.
4. Energy efficient features in window design (e.g. tinting and exterior shading), operable windows, ceiling fans, appliances and equipment.
5. Minimize coverage by asphalt, concrete, rock and similar substances in street, parking lots and other area to reduce local air temperatures and reflecting light and heat.
6. Energy-efficient lighting for streets, parking area, recreation area and other interior and exterior public areas.
7. Water closets with a maximum flush of 1.6 gallons and shower heads and faucets with a maximum flow rate of 2.5 gallons per minute (at 80 pounds of water pressure per square inch).
8. Selecting, planting and maintaining native plants, trees and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.
9. Planting native shade trees to provide reasonable shade for all recreation areas, street and parking areas. Planting native shade trees for each residential unit.
10. Placing trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months. Orienting structures, whenever

possible, to reduce solar heat gain by walls and utilize the natural cooling effects of the wind.

11. Including porch and patio areas in residential units.
12. Establishing project architectural review committees that will consider energy conservation measures to assist builders and residents in the efforts to achieve greater energy efficiency in the development.

C. STORMWATER MANAGEMENT

1. The Developer must meet the criteria set forth in Chapter 40E, Florida Administrative Code, and the South Florida Water Management District (SFWMD) Basis of Review. The Developer must obtain a modification of SFWMD Permit No. 36-00288-S for the construction and operation of the surface water management system. This permit must address any impacts created by the development to wetlands and other surface waters. Halfway Creek is classified as an Outstanding Florida Water (OFW). Any discharge to an OFW requires additional water quality consideration. Prior to the issuance of the permit modification, the District will evaluate this issue in greater detail.

2. The Developer must obtain all necessary approvals from the Florida Department of Transportation for any proposed discharge points and water control structures associated with US 41.

3. At the time of permit modification application, the Developer must provide finalized information regarding the size of proposed project lakes, the location of major water control structures, the correct identification of control structures within pre-treatment areas and verification of adequate dimensions for pre-treatment areas.

4. Best management practices are subject to Lee County review and approval and must be included on all construction plans for development.

5. All internal stormwater management lakes and ditches as well as any onsite preserved or enhanced wetland areas, must be set aside as private drainage or conservation easements on the recorded plat. Stormwater lakes must include, where practical, adequate maintenance easements around the lakes with access to a paved roadway.

6. During construction activities, the Developer must employ best management practices for erosion and sedimentation control. These practices must be included with, or presented on, all construction plans, and are subject to approval by the appropriate agencies prior to implementation.

7. The final stormwater management plan must consider, as applicable, measures to reduce runoff rates and volumes, including, but not limited to, fixed control

structures, perforated pipes, and grass swale conveyances. Swales, rather than closed systems, must be used whenever possible.

8. Any shoreline banks created along the onsite stormwater management system must include littoral zones constructed on slopes consistent with District and Lee County requirements and be planted in native emergent or submergent aquatic vegetation. The Developer must ensure, by supplemental replanting if necessary, that at least 80% cover by native aquatic vegetation is established/maintained within the littoral zone for the duration of the project.

9. The Developer must conduct annual inspections of the Master Stormwater Management System and any preserved/enhanced wetland areas on the project site to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended. The Developer or operating entity must undertake any cleaning and repair determined to be necessary based upon the annual inspection.

10. The Developer must confirm, to the satisfaction of all applicable federal, state, and local review agencies, and the South Florida Water Management District, that the proposed stormwater management system will not impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.

11. The Developer must undertake a regularly scheduled vacuum sweeping of all common streets and parking areas within the development.

12. If Lee County establishes a County-wide stormwater management system, the Developer must participate to the extent the system benefits the development.

13. Ditch and swale slopes must be designed to minimize discharges so that these facilities may provide some additional water quality treatment prior to discharge. Treatment swales must be grassed.

14. The grassed stormwater treatment areas must be mowed on a regular basis as part of the normal lawn maintenance of the development. Any debris that may accumulate in project lakes, ditches or swales, or which may interfere with the normal flow of water through discharge structures and under drain systems, must be cleaned from the detention/retention areas on a regular basis. Any erosion to banks must be replaced immediately.

15. Under drain systems and grease baffles, if utilized within the Coconut Point DRI, must be inspected and cleaned and/or repaired on a regular basis. In no instance may the period between such inspections exceed eighteen months.

16. Stormwater management system maintenance requirements include removal of any mosquito-productive nuisance plant species (e.g., water lettuce, water hyacinth, cattails and primrose willows) from all system nodes, reaches, and percolation basins, as well as from the lake littoral zones employed in the system.

17. When required by the SFWMD permit, any isolated wading bird “pools” constructed in lake littoral zones must be excavated to a depth that provides aquatic habitat for mosquito larvae predators, such as *Gambusia affinis*.

18. The Developer will establish a legal operating entity in accordance with the SFWMD Basis of Review and Lee County Land Development Code to maintain the internal stormwater management lakes, ditches and wetlands. Easements, common areas or other legal mechanisms may be utilized to ensure there is sufficient access to the stormwater management areas for maintenance purposes.

D. TRANSPORTATION

1. Significant Impacts

a. *Assessment Parameters*

The traffic impact assessment for the Project assumes the following development parameters, as a single phase:

	<u>Buildout (2006 2007)</u>
Multifamily Apartments (ITE LUC 220) (250 d.u. South Village)	250 d.u.
Multifamily Condominiums (ITE LUC 230) (450 d.u. Town Center, 550 d.u. North Village)	1,000 d.u.
Assisted Living Facility (ITE LUC 252) (200 d.u. South Village)	200 d.u.
Hotel (ITE LUC 310) (200 rooms Town Center, 150 rooms South Village)	350 rooms
Community Retail (ITE LUC 820) (280,000 square feet North Village, 70,000 square feet South Village)	350,000 sq. ft. (gla)
Regional Retail Center (ITE LUC 820) (1,450,000 square feet Town Center)	1,450,000 sq. ft. (gla)
General Office (ITE LUC 710) (70,000 square feet North Village, 90,000 square feet Town Center, 40,000 square feet South Village)	200,000 sq. ft.

Medical Office (ITE LUC 720)
(100,000 square feet South Village)

100,000 sq. ft.

The above parameters form the basis for the Project impacts and the mitigation requirements contained herein. The assumed land uses associated with the general parameters are identified by the Land Use Code (LUC) from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition. While approved zoning categories may allow a wider range of uses, from a DRI standpoint the Project impacts are based on the above parameters and assumed uses. If the Developer exercises Mitigation Option 2 and is granted concurrency vesting for all or a portion of the DRI, any significant change in the assumed uses, mix of uses or location of uses on the Master Concept Plan will require a re-evaluation of the DRI transportation impacts. A significant change is one that would increase the external project traffic by 5% or more or that would change the projected distribution and assignment of project traffic so as to result in a net increase in road miles of significantly and adversely impacted roadway links. This condition does not apply if Mitigation Option 1 is selected.

The overall traffic at the Project driveway entrances based on the above parameters is estimated to be 5,909 trips. They include 4,120 PM net new external peak hour trips, 757 pass-by trips, and 1,032 interzonal trip ends at based upon the original buildout in date of 2006. ("Interzonal trip ends" are from one part of the project to another that travel along or across public roadways.)

b. *Buildout Impacts*

The assessment on an existing-plus-committed network assuming the advancement of certain projects indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at the end of Buildout (~~2006~~ 2007):

Roadway Improvements Needed

<u>Roadways</u>	<u>Needed Improvement</u>
I-75 – Corkscrew Road to Daniels Parkway	Widen to 6 lanes
Three Oaks Parkway - Williams Road to Corkscrew Road	Widen to 6 lanes
US 41 – Koreshan Boulevard to San Carlos Boulevard - Bonita Beach Road to Coconut Road	Widen to 6 lanes Widen to 6 lanes

Old US 41
- Rosemary Drive to US 41

Widen to 4 lanes

Intersection Improvements Needed

Bonita Beach Road @ Old 41 ⁽¹⁾	Add 2 nd SB left turn lane
Coconut Road @ Driveway 9/Regional Retail Center ⁽²⁾	Add WB right turn lane
	Add SB right turn lane
	Add SB left turn lane
	Add dual EB left turn lane
	Signalization ⁽³⁾
Coconut Road @ Sandy Lane ⁽²⁾	Add WB left turn lane
	Add WB right turn lane
	Add NB right turn lane
	Add NB left turn lane
	Add SB left turn lane
	Add SB right turn lane
	Add EB left turn lane
	Add EB right turn lane
	Signalization ⁽³⁾
Corkscrew Road @ Ben Hill Griffin Parkway ⁽¹⁾	Add 2 nd EB left turn lane
	Add 2 nd NB left turn lane
	Add 2 nd SB left turn lane
	Signal retiming
Corkscrew Road @ River Ranch Road ⁽¹⁾	Add 2 nd WB left turn lane
Corkscrew Road @ Three Oaks Parkway	Add 2 nd NB left turn lane
	Add 2 nd SB left turn lane
	Add 2 nd EB left turn lane ⁽⁴⁾
	Add 2 nd WB left turn lane ⁽⁴⁾
	Add 2 nd NB left turn lane
	Add 2 nd SB left turn lane
	Signalization ⁽³⁾
Old 41 @ Dean Street ⁽¹⁾	Signal retiming
Old 41 @ Pennsylvania Avenue ⁽¹⁾	Add 2 nd NB thru lane
Old 41 @ West Terry Street ⁽¹⁾	Add 2 nd SB thru lane
	Signalization ⁽³⁾
Three Oaks Parkway @ Koreschan Boulevard ⁽¹⁾	Signalization ⁽³⁾
Three Oaks Parkway @ Williams Road ⁽¹⁾	Signalization ⁽³⁾
Three Oaks Parkway @ Coconut Road ⁽¹⁾	Signalization ⁽³⁾
US 41 @ Immokalee Road ⁽¹⁾	Signal retiming
US 41 @ Old 41 ⁽¹⁾ (Collier County)	Signal retiming
US 41 @ Bonita Beach Road	Signal retiming
US 41 @ West Terry Street	Signal retiming
US 41 @ Old 41/Pelican Landing Parkway	Add 2 nd WB right turn lane
	Add 2 nd NB left turn lane
	Add 2 nd SB left turn lane
	Add 2 nd EB left turn lane

US 41 @ Pelican Colony Boulevard

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Add NB right turn lane⁽²⁾

Add 2nd NB left turn lane

Add dual SB left turn lane⁽²⁾

Add 2nd EB left turn lane

Add EB right turn lane

US 41 @ Coconut Road

Add 2nd WB left turn lane

Add 2nd NB right turn lane

Add 2nd NB left turn lane

Add 2nd SB left turn lane

Add 2nd EB left turn lane

Add EB right turn lane

US 41 @ Driveway 6/Regional Retail Center⁽¹⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾⁽³⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 5/Internal East-west Road⁽¹⁾

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 4/Pelican Point Boulevard⁽¹⁾

Add NB right turn lane⁽²⁾

Add SB Left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 3/Fountain Lakes Boulevard⁽¹⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 2/Estero Greens⁽¹⁾

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Add EB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 1/Community Commercial⁽¹⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

US 41 @ Williams Road⁽¹⁾

Add 2nd SB left turn lane

US 41 @ Corkscrew Road⁽¹⁾

Add 2nd WB left turn lane

US 41 @ Broadway⁽¹⁾

Add 2nd WB left turn lane

Signal retiming

US 41 @ Koreshan Boulevard	Signalization ⁽³⁾
US 41 @ Sanibel Boulevard ⁽¹⁾	Signal retiming
US 41 @ Metro Parkway ⁽¹⁾	Add 2 nd NB right turn lane
US 41 @ Alico Road ⁽¹⁾	Signal retiming
US 41 @ Island Park Road ⁽¹⁾	Signal retiming
US 41 @ Ben Pratt/Six Mile Cypress Parkway ⁽¹⁾	Add EB thru lane
	Add WB thru lane
Williams Road @ Driveway 1/Comm Commercial ⁽¹⁾	Signalization ⁽³⁾
Williams Road @ River Ranch Road ⁽¹⁾	Signalization ⁽³⁾
Williams Road @ Sandy Lane ⁽²⁾	Signalization ⁽³⁾
	Add WB left turn lane
	Add NB right turn lane
	Add NB left turn lane
	Add EB right turn lane
Williams Road @ Three Oaks Parkway	Signalization ⁽³⁾

- (1) *This intersection is not included in a significantly and adversely impacted roadway segment.*
- (2) *This intersection is considered a site-related improvement.*
- (3) *Signalization only if warranted and subject to approval by the maintaining agency.*
- (4) *Dual EB and WB left turn lanes should be provided if they can be constructed without requiring reconstruction of the I-75 overpass bridge structure.*

The intersection improvements include at grade geometric improvements, such as turn lanes and signalization when warranted. Intersection improvements are accounted for in the overall proportionate share calculation. Site-related needs at the Project entrances are not addressed in the proportionate share calculation and must be addressed by the Developer at the time of local development order approval.

2. Mitigation

a. Buildout Proportionate Share

The buildout proportionate share is \$14,600,000 in year 2002 dollars. This figure represents the Developer's share of necessary roadway and intersection improvements based on the development parameters set forth in Section II.D.1.a. The estimated roads impact fees based on the schedule effective July 1, 2000 is \$10,196,250, which is lower than the proportionate share estimate.

As noted in Condition D.3 below, the Developer must pay \$170,000 as mitigation for the project's Comprehensive Plan impacts to the 2020 level of service on US 41 from Koreshan Boulevard to Alico Road. Therefore, the

total proportionate share obligation deemed sufficient to mitigate both the buildout DRI-related transportation impacts on the non-site related roads and intersections set forth in Paragraph D.1.b and the project's Comprehensive Plan impacts is \$14,770,000. However, if the reanalysis described in section D.2.d.1 demonstrates that additional funds are necessary to mitigate the project's transportation impacts, then the Developer will be required to pay the higher mitigation amount.

No independent fee calculation will be permitted for the project, or a subpart thereof, absent a Notice of Proposed Change.

b. *Mitigation Options*

The Developer must choose one of the two mitigation options identified below to satisfy the proportionate share obligation.

(1) Traffic Mitigation Option 1

(a) Payment

All development within the project must pay roads impact fees in effect at the time of building permit issuance. In addition to roads impact fees, and prior to the issuance of the first building permit for vertical construction of any portion of the Regional Retail Center, the Developer must make a lump sum cash payment of \$4,573,750 in year 2002 dollars. This lump sum cash payment is intended to mitigate the transportation impacts associated with the Regional Retail Center and satisfy the proportionate share obligation that is due over and above road impact fees.

In accordance with local policies and regulations, the Developer may be entitled to roads impact fee credits for road improvements constructed within the area surrounding the project.

(b) Concurrency

All development within the project will be subject to the County's Concurrency Management System at the time it obtains a local development order.

(2) Traffic Mitigation Option 2³

³ The Developer chose Option 2 and made the two installment payments in a timely manner.

(a) Payment

The Developer may vest, for concurrency purposes, up to 400,000 square feet of retail uses and all of the non-retail uses by making an up-front payment of \$6,270,000 in 2002 dollars on or before December 31, 2003 or the issuance of the first building permit for the site, whichever comes first (excepting any public uses mandated by this Development Order). The remaining portion of the project will be entitled to concurrency vesting upon the payment of \$8,500,000 in 2002 dollars on or before December 31, 2004 or the issuance of the first building permit for the retail uses of the project over 400,000 square feet, whichever comes first. The value of creditable pipelined improvements identified in the Development Agreement may be subtracted from the second payment only.

Concurrency certificates issued pursuant to this option will be effective until December 31, ~~2006~~ 2007, or for three (3) years, whichever is later; ~~provided, however, that the concurrency certificates will be extended upon approval of an extension pursuant to Section D. 2. d(2) for the period of the extension not to exceed one year.~~

(b) Development Agreement

Exercise of traffic mitigation option 2 requires a Local Government Development Agreement executed pursuant to §163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit a draft Development Agreement to Lee County within 6 months of the adoption of the original DRI Development Order or prior to submittal of any local development order application for the Regional Retail Center or the Community Commercial Retail. The Development Agreement must be executed prior to issuance of a local development order allowing vertical construction anywhere on the site, excepting public uses mandated by this Development Order. The agreement must specify the payment schedule for the total proportionate share obligation in accordance with subparagraph (2)(a) above.

c. *Application of Payments*

(1) Cash.

The County will apply all impact fees and cash payments made by the DRI toward the non-site related improvements identified in Section D.1.b. In the alternative, the County will apply the fees toward improvements that relieve those roadways, provided those improvements are deemed necessary to maintain the County's adopted level of service standards. If the improvements identified in Section D.1.b are ultimately funded through other sources, in whole or in part, or deemed unnecessary to maintain the adopted level of service standards, Lee County may apply the impact fees and cash payments paid by the DRI to other improvements consistent with the requirements of Lee County LDC Chapter 2. Potential applications of the cash payment can be specified in the Development Agreement.⁴

(2) Pipelined Improvements.

The Developer may propose in the Development Agreement to provide a specific roadway improvement or improvements in lieu of the second cash payment to the County of \$8,500,000 in 2002 dollars, which is referenced in Section D.2.b.(2)(a). The proposed pipeline improvements are subject to County approval. In addition to the improvements listed in Section D. 1. b, potential improvements for pipelining consideration include (but are not limited to):

- (a) Sandy Lane 2-lane Extension, from the south property line to the north property line (Williams Road) and from Williams Road to Corkscrew Road. Consistent with the County's long-range plan for Sandy Lane as a 2-lane collector and the County's standards for collector roads, no more than 100 feet of right-of-way and 2 lanes of construction will be eligible for credits against the proportionate share obligation. The reasonable cost of providing the railroad crossing between Williams Road and Corkscrew Road will be eligible for credits against the project's proportionate share obligation. If the Developer chooses to build more than 2 lanes, it will be at the Developer's sole expense.

⁴ An Interlocal Agreement addressing the traffic impacts to the City of Bonita Springs precipitated by approval of the Coconut Point DRI was approved by the Board of County Commissioners on March 23, 2003. The Agreement required the County to: (1) conduct the Sandy Lane Alignment Study; (2) transfer \$2.184 million to the City for the DRI impacts to Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican Colony Boulevard; (3) transfer \$138,000 for specified intersection improvements; and, (4) set the alignment of Sandy Lane between Pelican Landing Boulevard and the southern DRI boundary. As of November 2004, all requirements of the Interlocal Agreement have been fulfilled and the Interlocal is considered terminated by its own terms.

- (b) Interim improvements not requiring right-of-way at the Corkscrew Road/I-75 interchange (subject to FDOT approval).

The estimated costs of any improvements made by the Developer (including design, right-of-way acquisition, drainage, permitting, water retention, construction, and the like) must be documented and submitted to the County for review and approval. The County reserves the right to obtain its own estimates for comparison purposes. Credit against the proportionate share obligation will be based on the final actual costs of the agreed upon improvements. Any right-of-way granted to the County will be valued as of the day prior to the DRI and zoning approval and subject to the compliance with applicable LDC provisions. Credit for the construction costs will be subject to the provisions of the County Land Development Code and standard practice related to project timing. The improvements must be built to applicable County or State standards and accepted for maintenance in accordance with the requirements of the responsible jurisdiction.

d. *Buildout Extension*

(1) Requirement for Reanalysis

Extension of the buildout date beyond ~~2006~~ 2007 may alter the project's impact to the area road network. Therefore, if the Developer: ~~(a) files a Notice of Proposed Change resulting in an extension of project buildout beyond December 31, 2006~~ 2007; or (b) desires to extend the concurrency certificates issued pursuant to Condition D.2.b(2), then the Developer must provide a detailed traffic assessment to Lee County DOT for review and approval.⁵

The assessment must include, but is not limited to, identification of the adjusted phasing, the level of development anticipated for the revised phasing, estimated traffic impacts, needed improvements, and the project's proportionate share of those improvements.

The assessment must include a cumulative analysis of the

⁵The original DRI Development Order established a buildout date of December 31, 2006 and allowed a one year extension without traffic reanalysis, to December 31, 2007. Based upon a 2006 NOPC, the Developer sought and obtained the one year extension contemplated and allowed under the original DRI Development Order (See sections D.2(b)(2) and D.2.(d)(2).) Any extension of the buildout date beyond 2007 will require a complete traffic reanalysis.

project's traffic impacts. The assessment must also identify mitigation for significantly and adversely impacted road segments by cumulative project traffic at the extended buildout year in accordance with the Transportation Uniform Standard Rule in the Florida Administrative Code. Prior to conducting a reassessment analysis, the Developer must attend a transportation methodology meeting with the County, and other review agencies as necessary, to establish the appropriate methodology.

The traffic assessment will be prepared by the Developer following generally acceptable transportation planning procedures consistent with the standards in effect at the time of reanalysis. Payment of additional mitigation, if any, resulting from the traffic assessment must be specified in an amended development order. The development order must be amended via a Notice of Proposed Change to reflect the revised phasing and additional mitigation.

The County will provide credit against the recalculated proportionate share for all mitigation paid through the date of the new traffic assessment. Proportionate share payments previously made by the Developer will be adjusted to then current year dollars. This will be accomplished by increasing the principal amount paid by an amount equal to the increase as determined in the State Highway Bid Index for the State of Florida, published in the Engineering News Record, using an average of the last four quarterly factors. This increase will be expressed as a percentage and will be measured from the index published for the fourth quarter of 2001 to the index published in the then latest available edition.

Under no circumstances will reimbursement be granted for any portion of a payment made in exchange for concurrency vesting, regardless of the outcome of a reanalysis.

(2) Alternative for Reanalysis

(a) Extension of Buildout to December 31, 2007.⁶

If all or a part of the Regional Retail Center has received building permits prior to December 31, 2006, the Developer may choose to pay the traffic mitigation

⁶The developer paid the lump sums required to exercise Mitigation Option 2 in December 2004 and December 2005. The second DRI Development Order Amendment adopted _____, 2006 served to extend the buildout date to December 31, 2007. This was approved without a traffic reanalysis.

for some or all of the balance of the development through buildout in a lump sum at the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. In this case a cumulative traffic reanalysis is not required for the portion of the balance that is mitigated as part of the original DRI Development order. This section is not intended to supersede the standard submittal requirements for a typical Notice of Proposed Change under state law.

(b) *NOPC filed to extend buildout beyond 2007.*

If the entirety of the Coconut Point DRI is not built out by December 31, 2007, the NOPC requesting a buildout date extension must be accompanied by a complete cumulative traffic reanalysis, as contemplated by the June 15, 2005 RPC recommendation.

3. **Comprehensive Plan Mitigation**

An amendment to the Future Land Use Map, to change 435 acres from "Rural" to "Urban Community" was necessary to accommodate the approval of this DRI. To support the Map amendment, an analysis different from the DRI Transportation Analysis was necessary. This Comprehensive Plan analysis required review of the effects of the proposed DRI project in the year 2020 on the planned, financially feasible roadway network. The result of this analysis indicated that four road segments, beyond those planned for improvement as part of the 2020 financially feasible roadways network plan, will fail with the addition of the Coconut Point (aka Simon Suncoast) project. The failure for three of the identified segments will likely be addressed through other means, but the segment of US 41 from Koreshan Boulevard to Alico Road is projected to fail even after the six-lane improvement identified in paragraph D.1.b.

The comprehensive plan amendment transmittal package approved by the Board of County Commissioners on December 13, 2001, indicated that appropriate traffic impact mitigation must be provided at the time of rezoning or DRI development approval.

The costs for needed improvements beyond those planned in the 2020 Financially Feasible Plan are solely the responsibility of the Developer, and are treated much as a proportionate share obligation. In this case, the Developer has estimated that the provision of dual left turn lanes at a number of key intersections along the impacted segment of US 41 will improve the capacity enough to allow satisfactory operation. The Developer estimated that the cost of providing these turn lanes would be roughly

\$692,000, not including the costs of maintenance of traffic, mobilization and permitting. The Developer's proportionate share of the cost of the turn lanes is \$170,000. This figure has been added to the project's DRI proportionate share, as noted above.

4. Access and Site Related Improvements

In addition to the proportionate share obligation set forth above, the Developer is responsible for its share of the following site-related roadway and intersection improvements: all internal roadways, all intersection improvements, including signalization, turn lanes, deceleration lanes, and other improvements deemed necessary by the County Engineer and consistent with the Lee County Land Development Code for the Project's access points onto U.S. 41, Coconut Road, and Williams Road. The improvements include the installation of a signal coordination system on U.S. 41 from Pelican Colony Boulevard to Williams Road. During the local development order review process, site-related improvements must be evaluated based on weekday, PM peak hour conditions. Saturday mid-day conditions must be considered in the design of turn lanes due to the retail component of the DRI. Site-related improvements are not eligible for credit against impact fees and may not be used to offset the proportionate share obligation. Project accesses onto US 41 are subject to obtaining a connection permit from FDOT.

5. Committed Improvements

Roadway Improvements

<u>Roadways</u>	<u>Start Year</u>	<u>Improvement</u>
Alico Road – US 41 to Seminole Gulf Railway	02	4 Lanes
– Seminole Gulf Railway to I-75 West Ramps	02	6 Lanes
Ben Hill Griffin Parkway/Treeline Avenue – Alico Road to Daniels Parkway	02	4 Lane Ext.
Bonita Beach Road - Imperial Street to I-75	03	6 Lanes
Livingston/Imperial Connection – Immokalee Road to Bonita Beach Road	U/C	2 Lane Ext.
Metro Parkway – U.S. 41/Alico Road to Ben Pratt/Six Mile Cypress Pkwy (including interchange)	04	6 Lane Ext.

Three Oaks Parkway		
– S. of Coconut Road to Williams Road	U/C	4 Lane Ext.
– Williams Road to Corkscrew Road	U/C	4 Lane Ext.
– Corkscrew Road to Alico Road	03	4 Lanes
– Alico Road to Daniels Parkway	03	4 Lane Ext.
US 41		
– Old 41 (Collier County) to N. of Bonita Beach Road	03	6 Lanes
- San Carlos Boulevard to Alico Road	U/C	6 Lanes
Williams Road		
– River Ranch Road to Three Oaks Parkway	02	2 Lane Ext.

The Regional Retail Center has the potential to create a temporary burden on the transportation network. The following Staging Schedule is an effort to minimize the temporary transportation burden while providing the Developer with the ability to obtain building permits for vertical construction of retail uses. Issuance of any building permit for vertical construction will require prior compliance with the mitigation options set forth in condition D.2. The "Maximum Square Footage" column identifies the maximum gross retail square footage for which building permits allowing vertical construction may be issued prior to the corresponding date, unless the improvements identified "to Avoid Interim Level of Service Problem" are under construction on or before the identified date. If all required interim improvements are completed or under construction on or before the identified date, then building permits for the maximum amount of retail square footage as identified in conjunction with the corresponding date may be issued.

<u>Date</u>	<u>Maximum Square Footage</u>	<u>Needed Improvements to Avoid Interim Level of Service Problem</u>	
		<u>Route</u>	<u>Limit</u>
Adoption of DRI DO AND Compliance with Cond. D.2	400,000	Not Applicable	Not Applicable
July 1, 2004	800,000	U. S. 41 - 6 Lane	Collier County line to Bonita Beach Road

July 1, 2005	1,200,000	Three Oaks Ext. 4L Terry St. to Coconut Rd. OR Livingston Rd./ Imperial St. 4 Lane	Immokalee Rd. to E.Terry St.
July 1, 2006	1,800,000	US 41-6Lane AND Three Oaks Ext. 4 Lane AND Old 41 - 4 lane AND Metro Pkwy. Ext.- 6 Lane AND Three Oaks Ext- 4 Lane or Treeline Ext.-4L	Corkscrew Rd. to San Carlos Terry St. to Coconut Rd. Rosemary dr. to US 41 Alico Rd. to ben C Pratt/ Six Mile Cypress Pkwy Alico Rd. to Daniels Pkwy Alico Rd. to Daniels Pkwy.

6. Annual Transportation Monitoring Program

a. Design of Monitoring Program

The transportation monitoring program will be designed in cooperation with the Lee County Department of Transportation, the Florida Department of Transportation (FDOT), the Southwest Florida Regional Planning Council (SWFRPC), and the Florida Department of Community Affairs (FDCA) prior to submittal of the first report. The methodology of the annual transportation monitoring report may be revised if agreed upon by all parties.

b. Submittal of Monitoring Report

The Developer must submit an annual transportation monitoring report to the following entities for review and approval: Lee County Department of Transportation, FDOT, FDCA, and SWFRPC. The first monitoring report will be submitted ~~one year after the effective date of the DRI Development Order~~ by November 30, 2006. The Developer must provide written notice to the above review agencies if the Developer concludes that a traffic monitoring report is not required because no traffic impacts have been created. Once ~~an annual~~ the transportation monitoring report has been submitted, a report must be submitted annually thereafter until Project buildout, whether actual or declared.

c. Minimum Requirements for Report Contents

The monitoring report will measure the Project's actual external roadway impacts and the level of service conditions on the impacted roads and intersections, and determine the timing for needed improvements. The ~~annual~~ traffic monitoring report must also contain the following information:

- (1) P.M. peak Signalization⁽²⁾⁽³⁾ hour traffic counts with turning movements at the Project's access points onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane, and on the external road segments and intersections identified in Paragraph D.1.b. (Traffic counts/volumes may be obtained from original traffic counts, public agency reports, other monitoring reports, and other available data.)
- (2) A comparison of field measured external Project traffic volumes to the 5,909 total P.M. Peak hour external (including 757 pass-by and 1,032 interzonal trip ends) project trip generation from all driveways onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane assumed in the DRI analysis. If an interconnection is provided to The Brooks parcel at the southeast corner of U.S. 41 and Coconut Road, a methodology must be developed to identify pass-through trips generated by The Brooks parcel.
- (3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above.
- (4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above, based on a one-year projection of future volumes. A summary of the status of road improvements assumed to be committed by Collier County, Lee County and FDOT.

d. *Implications*

- (1) If the ~~annual~~ transportation monitoring report reveals that the Project trip generation exceeds the original assumptions contained herein, then the statutory provisions regarding substantial deviations will govern.
- (2) Changes to development parameters or buildout may require the Developer to rebut the statutory presumption of substantial deviation. In some instances, the evidence necessary to rebut the presumption may involve a comparison of Project trip distribution and assignment.

7. Pedestrian/Bicycle and Transit Facilities

The Developer will provide for pedestrian and bicycle facilities and bus stop locations in accordance with the map attached as Exhibit F.

E. VEGETATION AND WILDLIFE/WETLANDS

1. Impacts to the habitat value of the site (i.e. habitat utilized by dispersing juveniles and possible habitat available to adults occupying the Corkscrew area) must be considered during the permitting review process with the SFWMD and the Department of Army Corps of Engineers (ACOE). This impact must be assessed in terms of the type and function of the forested habitat on site, and the site's contribution as a connection between preserve lands to support wide-ranging and wetland dependent species. The Developer will coordinate with the U.S. Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FFWCC) to address the impacts the proposed project may have on habitat utilized by wide-ranging listed species including the Florida Panther and Florida Black Bear.

2. The lake designs must include draw down pool features in littoral shelf slopes to favor use by woodstork and other wading birds.

3. The Developer must follow the Standard U.S. Fish and Wildlife Service Protection Measures for the Eastern Indigo Snake; and an Eastern Indigo Snake Protection Plan to be submitted for review and approval by the FFWCC as a condition of local development order approval.

4. The Developer must provide an on-site preserve management plan for review and approval by the FFWCC as a condition of local development order approval.

5. The 482± acre site originally consisted of 36.23± acres of SFWMD jurisdictional wetlands. The Developer is committed to conserving 22.15 acres of jurisdictional wetlands and 4.81 acres of jurisdictional surface waters. An estimated 9.27 acres of jurisdictional wetlands are proposed to be impacted with an additional 14.56 acres of non-jurisdictional surface waters to be filled (borrow lakes). 3.76 acres of the proposed wetland impacts have been previously permitted by the SFWMD and the Army Corp of Engineers (ACOE) under the Sweetwater MPD/Brooks project (e.g., eradication of exotic vegetation and wetland hydroperiod enhancement).

6. Prior to impacting the additional 5.51 acres of jurisdictional wetlands, the Developer must modify existing SFWMD and ACOE permits and provide additional mitigation.

7. Wetlands and surface waters remaining on the project site must be protected during construction through the implementation of temporary erosion and sedimentation control procedures.

8. Littoral plantings will be incorporated into the final design of the proposed stormwater management ponds. Plantings of desirable wetland herbaceous plants, to include species such as pickerelweed, maiden cane, and blue flag iris, cypress and black gum.

9. The existing flow-way is part of the Halfway Creek Watershed and headwaters. The 32.7 acre flow-way must be preserved and enhanced. An enhancement plan must be submitted as part of the local development order approval process. This plan must include a restoration planting plan for the 8.49± acres melaleuca dominated slash pine-cypress mixed wetland forest and the 6.84± acre area located in the southeast branch of the flow-way that was previously cleared/disturbed. The restoration planting plan, which is outside of the mitigation requirements under the existing permits, can be utilized as compensatory mitigation for additional wetland impacts during subsequent permitting review processes with the state and federal regulatory agencies.

F. HURRICANE PREPAREDNESS

1. The Developer has stated an intention to utilize various community buildings, which are to be built in several locations throughout the development, as onsite emergency shelters for the project's residents. Based on the estimate of needed shelter space prepared by the staff of the Southwest Florida Regional Planning Council, the total shelter space provided by the Developer within Coconut Point DRI will be 10,480 square feet.

2. Construction of the buildings to serve, as onsite shelters must be started no later than the issuance of the 100th residential unit certificate of occupancy within each separate community in the overall development. All buildings to be utilized, as shelters must meet the following criteria:

- a. elevated above the Category 3 storm surge level;
- b. constructed in accordance with the requirements in Rule 9J-2.0257(6)(e), FAC, to withstand winds of at least one hundred twenty (120) miles per hour;
- c. all windows in the building are shuttered;
- d. equipped with an emergency power generator with adequate capacity to handle the following:
 - (1) ventilation fans;
 - (2) emergency lighting;
 - (3) life safety equipment (i.e., intercom, fire and smoke alarms); and
 - (4) refrigeration and cooking equipment.

- e. have an auxiliary potable water supply.

3. As an alternative to providing all or part of the shelter space in on-site buildings, the Developer may limit the onsite shelter demand of the project by elevating all or portion of the residential units above 15.9 to 16.8 feet NGVD, if the units are located in these elevation ranges, which is the maximum predicted Category 3 storm surge flooding level. The amount of shelter space to be constructed or shelter impact fees to be paid will be determined by the Lee County Office of Emergency Management.

4. All deeds to property located within the Coconut Point DRI must include or be accompanied by a disclosure statement in the form of a covenant stating the property is located in a hurricane vulnerability zone and that the hurricane evacuation clearance time for Lee County or the Southwest Florida Region is high and hurricane shelter spaces are limited.

5. The Developer is also proposing to develop 350 hotel or motel rooms, within the Coconut Point DRI. Prior to issuance of a local development order for the hotel/motel, the hotel/motel Developer must contact Lee County Emergency Management with respect to establishing written hurricane preparation and evacuation/sheltering procedures. These procedures must be reduced to a written plan, prepared by the hotel/motel Developer, and approved by Lee County Emergency Management prior to occupancy of the hotel/motel.

6. Mitigation for hurricane evacuation route impacts will be accomplished through implementation of one of the following provisions. The mitigation option to be used must be identified by the Developer as part of the local development order process.

- a. Establish and maintain a public information program within the proposed homeowners associations for the purpose of educating the development's residents regarding the potential hurricane threat; the need for timely evacuation in the event of an impending hurricane; the availability and location of hurricane shelters (specifically including the onsite shelters); and the identification of steps to minimize property damage and protect human life.

In order to use the above mitigation option, the Developer must provide a continuing hurricane awareness program and a hurricane evacuation plan. The hurricane evacuation plan must address and include, at a minimum, the following items: operational procedures for the warning and notification of all residents and visitors prior to and during a hurricane watch and warning period; a public awareness program that addresses vulnerability, hurricane evacuation, hurricane shelter alternatives including hotels, the locations of both the onsite hurricane shelters and onsite or offsite public shelters, and other protective actions that may be specific to the development; identification of who is responsible for implementing the plan; and other items as deemed appropriate. The plan must be developed in coordination with local emergency management officials. In order to use this mitigation

option, the final plan must be found sufficient by the reviewing agencies and must address the recommendations provided by the reviewing agencies; or

- b. Alternatively, the Developer must commit to providing roadway capacity improvements above and beyond those improvements required by Rule 9J-2.0255, FAC; or
- c. The Developer must commit to providing funds to be used for the purpose of procuring communications equipment, which would upgrade the existing warning and notification capability of local emergency management officials. In order to use this mitigation option, the Developer must provide reasonable assurance to local emergency management officials regarding the provision's ability to reduce the development's hurricane evacuation impacts. The amount of the funding will be determined and approved by the local emergency management officials.

G. WASTEWATER MANAGEMENT/WATER SUPPLY

1. The Developer will obtain a SFWMD permit for groundwater withdrawals for landscape irrigation, for irrigation well construction, as well as for any dewatering needed to construct the project lakes, roads or building foundations.

2. The Developer will utilize water conserving devices and methods necessary to meet the criteria established in the water conservation plan of the public water supply permit issued to Bonita Springs Utilities (BSU).

3. The Developer will coordinate with BSU or other water supplier to ensure that adequate potable water is available to meet the demands of the project.

4. The Developer will provide any necessary verification to the SFWMD that the Developer's plumbing and irrigation designs are consistent with District rules.

5. The Developer must demonstrate at the time of local development order approval that sufficient potable water and wastewater treatment capacity is available. If BSU cannot provide the necessary service, then the Developer must obtain service from an alternate provider with capacity or construct on-site interim facilities that satisfy BSU Standards. Interim facilities must be dismantled at the Developer's expense when service by BSU is available.

6. The on-site lakes, wetlands, and stormwater management system must be buffered from treated effluent contamination in accordance with SFWMD regulations.

7. Septic systems utilized in conjunction with construction trailers, sales offices and model homes must be temporary. When it is feasible to connect the temporary uses to the regional wastewater treatment facilities, all temporary septic systems must be

abandoned or removed by a licensed septic system firm, in accordance with all applicable regulations.

8. The Developer must submit copies of all local development order application plans that include potable water or wastewater collection and distribution systems to BSU. BSU will review the plans for compliance with the BSU specifications manual.

9. Lee County will evaluate all potable water facilities to ensure that the facilities are properly sized to meet average, peak day, and fire flow demands in accordance with the LDC. Lee County will consult with the appropriate fire protection district to confirm that the fire flow demands will be satisfied by the proposed potable water facility.

10. The Developer must use the lowest, yet acceptable for the intended purpose, quality of water available for all non-potable water purposes.

H. COMPREHENSIVE PLAN

On October 21, 2002 the Board adopted a resolution amending the Lee Plan to reclassify the DRI site to the Urban Community land use category.

I. POLICE AND FIRE PROTECTION

1. The Developer will ensure that first responders to the area are adequately trained by TECO/People Gas to address accidental natural gas releases from the natural gas pipelines that are to be located on or adjacent to the site to ensure the safety of the residents and visitors to the area.

2. The project must be constructed and maintained in accordance with the adopted Life Safety and Fire Code requirements.

3. The owner or operator of a facility qualifying under the Superfund Amendments Reauthorization Act (SARA) Title III of 1986, and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, must file hazardous materials reporting applications in accordance with §§302, 303, 304, 311, 312, or 313. The applications must be updated annually by each reporting facility.

4. The Developer will provide the Lee County Sheriff's Department with finished shell space in the main regional mall complex (Regional Retail Center) for use as a Sheriff's substation to facilitate law enforcement activities. This space will be provided at nominal cost to the Sheriff's Department.

5. The Fire and EMS impacts of this project will be mitigated by the payment of impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide the Estero Fire Rescue District with an appropriate parcel (not less than 1 acre in size) for the location of a fire-rescue station and emergency medical services

facility on the project site. Upon transfer of this site to the Fire District, the Developer will be entitled to fire impact fee credits in accordance with the LDC.

6. The Developer will conduct a comprehensive security study and evaluation during the design and construction of each retail development phase. The purpose of this study is to design and implement site specific security measures. The plan must provide for review on a quarterly basis by regional security audits. A copy of this plan must be submitted to the County as a condition of local development order approval.

7. The water mains, fire hydrants, and site access must be designed and constructed in accordance with Lee County regulations and BSU guidelines by providing large water mains meeting minimum diameters based upon proposed land use, and installation of fire hydrants in suitable locations to provide adequate fire protection coverage. Internal fire sprinkler systems may be required for structures to meet supplemental fire protection.

8. Any on-site facilities with commercial pool operations must comply with appropriate codes and statutes including required safety measures such as chemical sensors, internal alarm systems, or emergency shutdown systems.

J. EDUCATION

1. The education impact of this project will be mitigated by the payment of school impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide a site at least five acres in size and appropriately located to accommodate the growing school needs in this area of the county. Upon transfer of this site to the School District, the Developer may be entitled to seek school impact fee credits in accordance with the LDC.

2. This project will have an impact on the Estero High School and surrounding neighborhood traffic. The Developer will use reasonable efforts to prevent the project's construction traffic from using Williams Road east of the railroad tracks.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

A. Resolution. This Development Order constitutes a resolution of Lee County adopted by the Board of County Commissioners in response to the DRI ADA filed for Coconut Point DRI and this subsequently filed Notice of Proposed Change.

B. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the Developer in the ADA and supplementary documents that are not in conflict with conditions or stipulations specifically enumerated above are incorporated by reference into this Development Order. These documents include, but are not limited to the following:

1. The Coconut Point (f/k/a Simon Suncoast) Application for Development Approval, stamped received on September 12, 2000;
2. The Coconut Point DRI sufficiency responses stamped received on February 7, 2001 and April 10, 2001 (transportation) and April 13, 2001; and
3. The governing zoning resolution for the Coconut Point (f/k/a Simon Suncoast) MPD.

C. Master Plan of Development. Map H, stamped received at the Zoning Counter on November 17, 2004 and attached hereto as Exhibit "B", and is incorporated by reference. It is understood that because it is a concept plan it is very general. The Developer may modify the boundaries of development areas and the locations of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modifications meet local development regulations. This provision may not be used to reduce the size of wetland preserve areas. Precise wetland boundaries will be determined by the South Florida Water Management District, as delegated by the Department of Environmental Protection and the Army Corp of Engineers.

D. Binding Effect. The Development Order is binding upon the Developer, its successors and assigns. Where the Development Order refers to lot owners, business owners or other specific reference, those provisions are binding on the entities or individuals referenced. Those portions of this Development Order that clearly apply only to the project Developer are binding upon any builder/developer who acquires a tract of land within the DRI. The Developer may impose or pass on the requirements of this DRI development order to ultimate purchasers through covenants that run with the land and phasing schedule.

E. Reliance. The terms and conditions set out in this Development Order constitute a basis upon which the Developer and the County may rely with respect to future actions necessary to fully implement the final development contemplated by this Development Order. The development parameters and phasing schedule upon which this development order approval is based is set forth in Exhibit C. Change to the development mix or phasing schedule may require a reanalysis of project impacts in order to rebut a presumption of substantial deviation.

F. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party by action at law or equity. All costs of those proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

G. Successor Agencies. References to governmental agencies will be construed to mean future instrumentalities that may be created and designated as

successors in interest to, or which otherwise possess, the powers and duties of the referenced governmental agencies in existence on the effective date of this Development Order.

H. Severability. If any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, then that decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

I. Applicability of Regulations. This Development Order does not negate the Developer's responsibility to comply with federal, state, regional and local regulations.

J. Further Review. Subsequent requests for local development permits do not require further DRI review pursuant to §380.06, Florida Statutes. However, upon a finding at a public hearing by the Board that any of the following conditions exist, the Board must order a termination of all development activity in that portion of the development affected by substantial deviation until a DRI Application for Development Approval, Notice of Substantial Deviation or Notice of Proposed Change has been submitted, reviewed and approved in accordance with §380.06, Florida Statutes.

1. There is a substantial deviation from the terms or conditions of this Development Order or other changes to the approved development plans that create a reasonable likelihood of an additional regional impact or any other regional impact created by the change that has not been evaluated and reviewed by the Regional Planning Council; or

2. Expiration of the period of effectiveness of the Development Order. Any request to extend the effectiveness of this Development Order will be evaluated based on the criteria for the extension of the buildout date set forth in §380.06(19), Florida Statutes.

3. Conditions in this development order that specify circumstances in which the development will be required to undergo additional DRI review. See 9J-2.025(10).

K. Buildout and Termination Dates. The project has a buildout date of December 31, ~~2006~~ 2007, and a termination date of December 31, ~~2012~~ 2013. The termination date is based on a 4-year buildout and the recognition that a local Development Order, which is valid for six years, may be obtained prior to December 31, ~~2012~~ 2013. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in §380.06(15)(g) are applicable.

L. Commencement of Physical Development. As of November 2004, commencement of substantial physical development of the project has occurred. Further

development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit C.

M. Assurance of Compliance. The administrative director of the Lee County Department of Community Development, or their designee, will be the local official responsible for assuring compliance with this Development Order. Lee County is primarily responsible for monitoring the development and enforcing the provisions of the development order. No permits or approvals will be issued if the Developer fails to act in substantial compliance with the development order.

N. Credits Against Local Impact Fees. Pursuant to §380.06(16), Florida Statutes, the Developer may be eligible for credits for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions to meet the same needs. However, no credit will be provided for internal or external site-related facilities required by County regulations, or to any off-site facilities to the extent those facilities are necessary to provide safe and adequate services to the development.

O. Protection of Development Rights. The project will not be subject to down-zoning, unit density reduction, or intensity reduction prior to December 31, 2013. If the County demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur. [See 9J-2.025(3)(b)13]

P. Annual Reports. The Developer must submit a report annually to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the annual report must include the information set forth in Exhibit D, and must also be consistent with the rules of the FDCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than ~~one year after the effective date of this Development Order~~ November 30, 2006. Further reporting must be submitted not later than one year for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this annual reporting procedure is governed by §380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

The Developer must file the annual monitoring reports until actual or declared buildout of the project. The Simon Property Group is the party responsible for filing the annual monitoring reports until one or more successor entities are named in the development order. The Developer must inform successors in title to the undeveloped portion of the real property covered by this development order of the annual reporting requirement. Tenants or owners of individual lots or units have no obligation to comply with this reporting condition.

The Developer must also submit a transportation annual report in accordance with the provisions set forth in Section II.D. of this development order.

Q. Community Development District. The Developer might elect to petition for the formation of a Uniform Community Development District to serve all or a portion of the project pursuant to Florida Statutes, Chapter 190, as it may be in effect from time to time. Lee County hereby gives its approval that any such district may undertake the construction and/or funding of all or any of the mitigation and public infrastructure projects for which the Developer is responsible under the terms of this development order, whether within or without the boundaries of the district, and including the payment of mitigation amounts provided for in this development order, as a co-obligor hereunder. This provision may not be construed to require the approval of any petition to form such a district, and in no event will the Developer be released from its obligations under this development order.

R. Transmittal and Effective Date. The County will forward certified copies of this Development Order to the SWFRPC, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeal period (45 days from rendition) or until FDCA has completed their review and has determined not to take an appeal, should that occur prior to the expiration of the 45-day period, or until the completion of any appellate proceedings, whichever time is greater. In accordance with the requirements of §380.06(15)f, Florida Statutes, once this development order is effective, the Developer must record notice of its adoption in the office of the Clerk of the Circuit Court of Lee County.

S. Continued Agricultural Use of Property. Bona fide agricultural uses in existence on the date of this DRI approval initially approved October 21, 2005 may continue until the first development order approval for a site within the particular tract, as designed on Map H, (excluding public uses mandated by this Development Order). No development activity of any kind may occur on the property, including the clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with Lee County regulations as if no agricultural use existed on the property. The purpose of the limitation is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agriculture on the property.

THE MOTION TO ADOPT this Development Order was offered by Commissioner _____, and seconded by Commissioner _____ and upon a poll of the members present, the vote was as follows:

Robert Janes
Douglas St. Cerny
Ray Judah
Tammara Hall
John E. Albion

DULY PASSED AND ADOPTED this ____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____

By: _____
Chairwoman

Approved as to form

By: _____
Dawn E. Perry-Lehnert
Assistant County Attorney

Exhibits:

- A. Legal Description
- B. Master Plan of Development (Map H) Stamped Received November 17, 2004
- C. Development Parameters and Phasing Schedule
- D. Annual Monitoring Report Requirements
- E. Calculation of Road Impact Fee Obligation
- F. Pedestrian, Bicycle and Bus Stop Plan



HM PROJECT #1997079
1/17/01
REF. DWG. #A-994-3
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LEGAL DESCRIPTION

PERMIT LOCATION

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°32'05"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 971.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,605.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W., FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E., A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 583.09 FEET; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°26'58"W., A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°56'48"E., FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN S.00°59'47"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,869.10 FEET TO THE POINT OF BEGINNING; CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE

DRI 2006-00002

FEB 06 2006

EXHIBIT A
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SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,320.56 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,692.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°56'59"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,590.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,641.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 936.68 FEET AT A BEARING OF N.05°42'42"W., FOR A DISTANCE OF 937.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 98.54 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 7,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 369.09 FEET AT A BEARING OF S.89°50'53"W., FOR A DISTANCE OF 369.14 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°39'07"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.04°52'41"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,901.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,725.19 FEET, THROUGH A CENTRAL ANGLE OF 11°32'50", SUBTENDED BY A CHORD OF 548.30 FEET AT A BEARING OF S.00°53'44"E., FOR A DISTANCE OF 549.23 FEET TO THE END OF SAID CURVE; THENCE RUN S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 225.81 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,710.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 626.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,584.73 FEET, THROUGH A CENTRAL ANGLE OF 06°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E., FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°15'56"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°02'16"E., FOR A DISTANCE OF 577.44 FEET; THENCE RUN S.01°57'26"E. FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°02'34"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,875.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 576.92 FEET AT A BEARING OF N.79°11'34"E., FOR A DISTANCE OF 579.22 FEET TO THE END OF SAID

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CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 512.09 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 263.08 FEET TO THE POINT OF BEGINNING; CONTAINING 386.536 ACRES, MORE OR LESS.

NOTES:

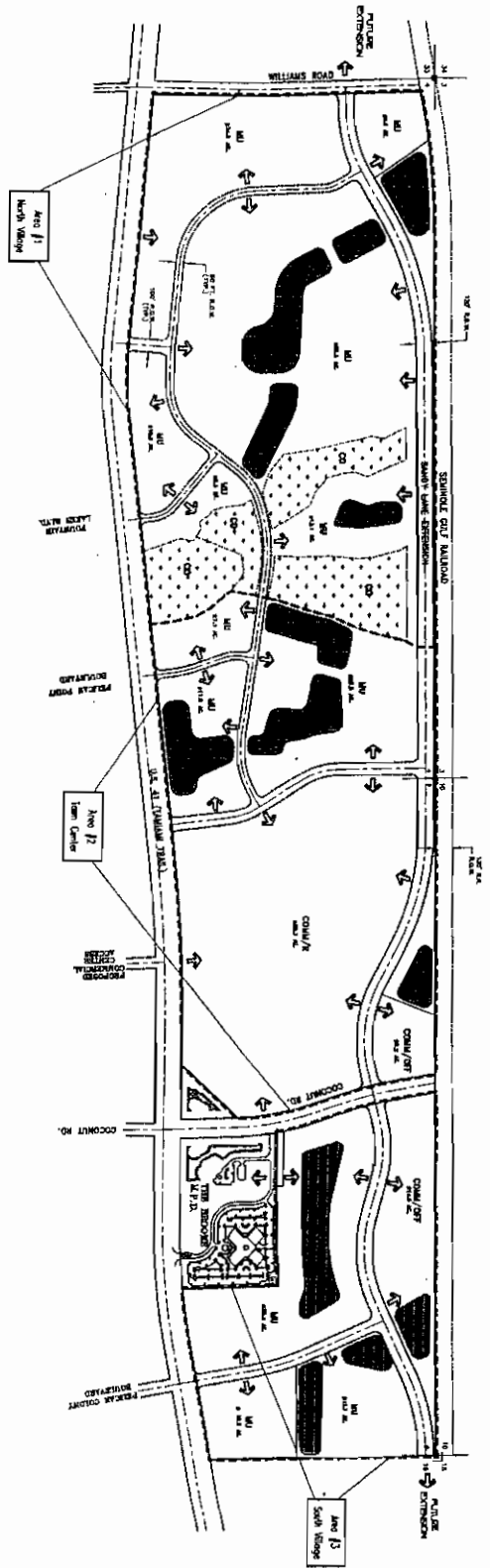
THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84.

INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.



LAND USE BREAKDOWN

CONSERVATION AREAS	532.7 ACRES
LANDS	847.1 ACRES
WATER B.O.W.	842.2 ACRES
OTHER LAND /	511.5 ACRES
CONSERVATION AREAS	3,248.2 ACRES
TOTAL	4,482.2 ACRES

PROJECT INTENSITY

RESIDENTIAL	1,400
COMMERCIAL	1,000,000
OFFICE	200,000
INDUSTRIAL	100,000
RECREATION	500
OTHER	500
TOTAL	300

LEGEND

CONA	CONSERVATION AREAS
COM	COMMERCIAL
RES	RESIDENTIAL
IND	INDUSTRIAL
OFF	OFFICE
WATER	WATER B.O.W.
OTHER	OTHER LAND
CONSERVATION AREAS	CONSERVATION AREAS
PROPOSED LANE	PROPOSED LANE
CONCEPTUAL ACCESS POINT	CONCEPTUAL ACCESS POINT
ROAD R.O.W. LINE	ROAD R.O.W. LINE
DEVELOPMENT OF ENCLOSURE AREAS	DEVELOPMENT OF ENCLOSURE AREAS

1. NOTES: CONSERVATION AREAS ARE TO BE MAINTAINED AS SUCH AND SHALL REMAIN OPEN SPACE AND SHALL NOT BE DEVELOPED FOR ANY OTHER PURPOSE.
 2. THE ABOVE USE (S) REPRESENTS (S) ONE (1) OF SEVERAL POSSIBLE USES, INCLUDING BUT NOT LIMITED TO: RESIDENTIAL, HOTEL, OFFICE, INDUSTRIAL, RETAIL, AND OTHER POSSIBLE USES.

RECEIVED
 NOV 17 2004
 PERMIT COUNTER
 DRI 2004 0000-8

<p>SIMON SUNCOAST MASTER CONCEPT PLAN MAP 'H'</p>	<p>HM HOLE MONTES ENGINEERS-PLANNERS-SURVEYORS</p>	<p>5202-F Presidential Court Fort Myers, FL 33919 Phone : (239) 985-1200 Florida Certificate of Authorization No.1772 Naples - Fort Myers - Venice - Englewood</p>
<p>DATE: 11/17/04 DRAWN BY: [] CHECKED BY: [] APPROVED BY: []</p>	<p>DATE: 11/17/04 DRAWN BY: [] CHECKED BY: [] APPROVED BY: []</p>	<p>DATE: 11/17/04 DRAWN BY: [] CHECKED BY: [] APPROVED BY: []</p>

DRI
EXHIBIT C

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,450,000* sq. ft.	2006 <u>2007</u>
Community Retail	350,000* sq. ft.	2006 <u>2007</u>
Office	300,000** sq. ft.	2006 <u>2007</u>
Hotel	350 Rooms	2006 <u>2007</u>
Residential, Multi-family	1250 du	2006 <u>2007</u>
Assisted Living Facility	200 units	2006 <u>2007</u>

* Gross Leasable Area

**Up to 100,000 sq. ft., may be medical office

DRI
EXHIBIT D

ANNUAL MONITORING REPORT REQUIREMENTS

The ~~Annual~~ Monitoring Report that must be submitted by the Developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

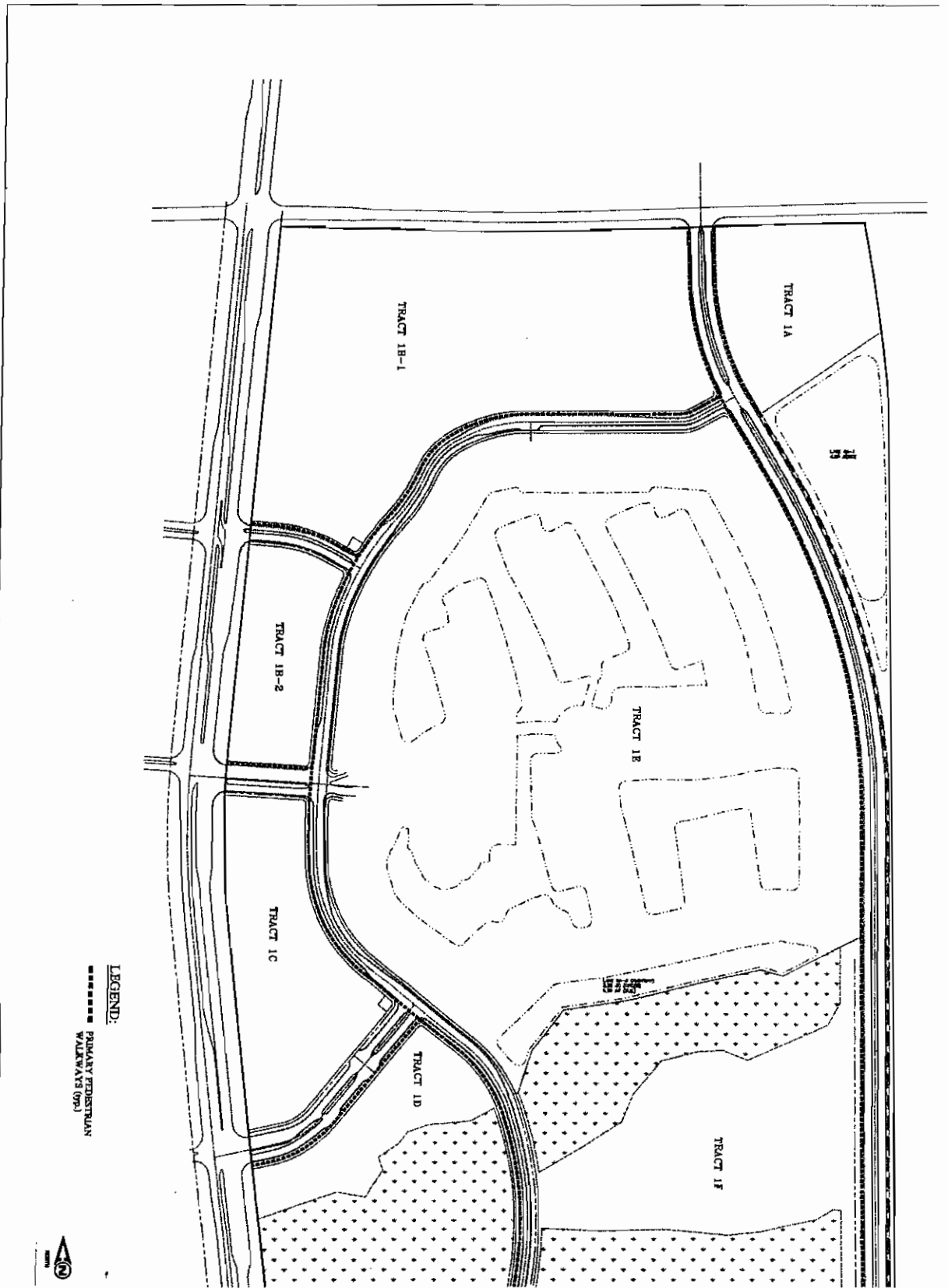
- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the Developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments which are contained in the application for development approval and which have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the ~~annual~~ report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the ~~annual~~ biennial report. The Administrative Code requires that the ~~annual~~ report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

DRI
EXHIBIT E
Calculation of Road Impact Fee Obligation⁵

LAND USE	ITE LUC	UNIT	RATE	SIZE	AMOUNT
GENERAL INDUSTRIAL	130	1000 SF	\$1,681.00	0	\$ -
WAREHOUSE	150	1000 SF	\$1,198.00	0	\$ -
MINI-WAREHOUSE	151	1000 SF	\$ 419.00	0	\$ -
SINGLE-FAMILY DETACHED	210	DU	\$2,436.00	0	\$ -
MULTI-FAMILY	220	DU	\$1,687.00	1000	\$ 1,687,000.00
MOBILE HOME (PARK UNIT)/RV SITE	240	DU	\$1,221.00	0	\$ -
ACLF	252	DU	\$ 550.00	200	\$ 110,000.00
HOTEL	310	ROOM	\$1,834.00	600	\$ 1,100,400.00
TIMESHARE	310	DU	\$1,834.00	0	\$ -
GOLF COURSE	430	ACRE	\$ 711.00	0	\$ -
MOVIE THEATRE	443	1000 SF	\$5,600.00	0	\$ -
ELEMENTARY/SECONDARY SCHOOL (PRIVATE)	520	1000 SF	\$ 611.00	0	\$ -
CHURCH	560	1000 SF	\$1,402.00	0	\$ -
DAYCARE	565	1000 SF	\$3,900.00	0	\$ -
HOSPITAL	610	1000 SF	\$2,941.00	0	\$ -
NURSING HOME	620	1000 SF	\$ 824.00	0	\$ -
OFFICE UNDER 100,000 SF	710	1000 SF	\$2,254.00	100	\$ 225,400.00
OFFICE 100,000 SF AND OVER	710	1000 SF	\$1,918.00	100	\$ 191,800.00
MEDICAL OFFICE	720	1000 SF	\$6,334.00	100	\$ 633,400.00
RETAIL UNDER 100,000 SF	820	1000 SF	\$3,992.00	100	\$ 399,200.00
RETAIL 100,000 SF TO 250,000 SF	820	1000 SF	\$3,869.00	150	\$ 580,350.00
RETAIL 250,000 SF TO 500,000	820	1000 SF	\$3,634.00	250	\$ 908,500.00
RETAIL 500,000 SF AND OVER	820	1000 SF	\$3,354.00	1300	\$ 4,360,200.00
STANDARD RESTAURANT	831	1000 SF	\$8,715.00	0	\$ -
FAST FOOD RESTAURANT	834	1000 SF	\$9,886.00	0	\$ -
CAR WASH, SELF-SERVICE	847	STALL	\$7,749.00	0	\$ -
CONVENIENCE FOOD AND BEVERAGE STORE	851	1000 SF	\$8,715.00	0	\$ -
BANK	911	1000 SF	\$6,063.00	0	\$ -
TOTAL					\$10,196,250.00

⁵ The calculations included here are based upon the impact fee schedule effective July 1, 2000.



LEGEND:
 ■■■■■■■■■■ PRIMARY PEDESTRIAN WALKWAYS (9ft)



<p>SIMON 1175 W. WASHINGTON AVENUE SUITE 200 ORLANDO, FL 32801 (407) 841-1000</p>		<p>The Shops at Coconut Point BONITA SPRINGS FLORIDA</p>	
<p>PROPOSED PEDESTRIAN CIRCULATION PLAN</p>		<p>DATE: 08/11/10 DRAWN BY: [Name] CHECKED BY: [Name] SCALE: AS SHOWN</p>	
<p>011102_PSD_CIRC PLAN_080904</p>			

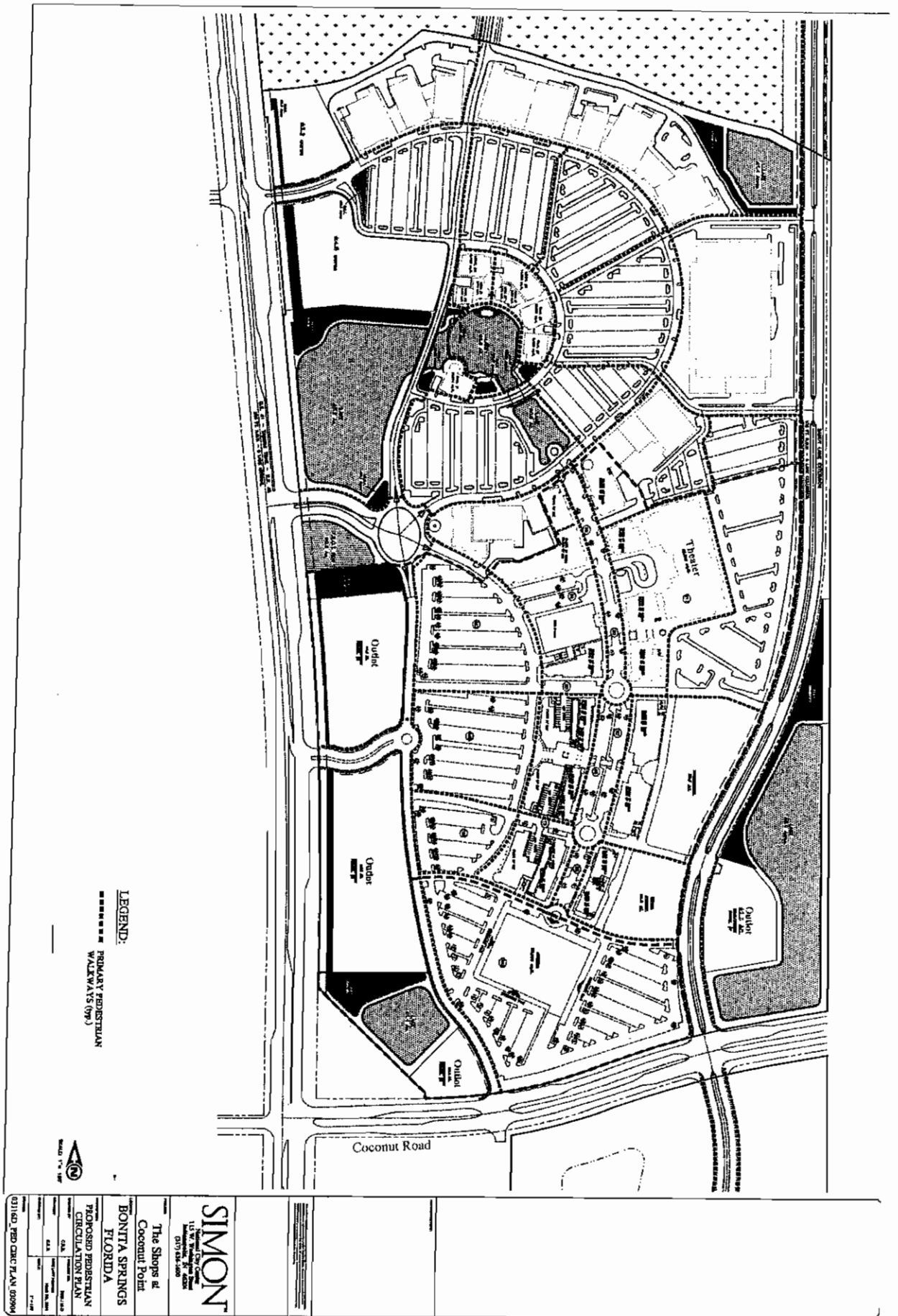
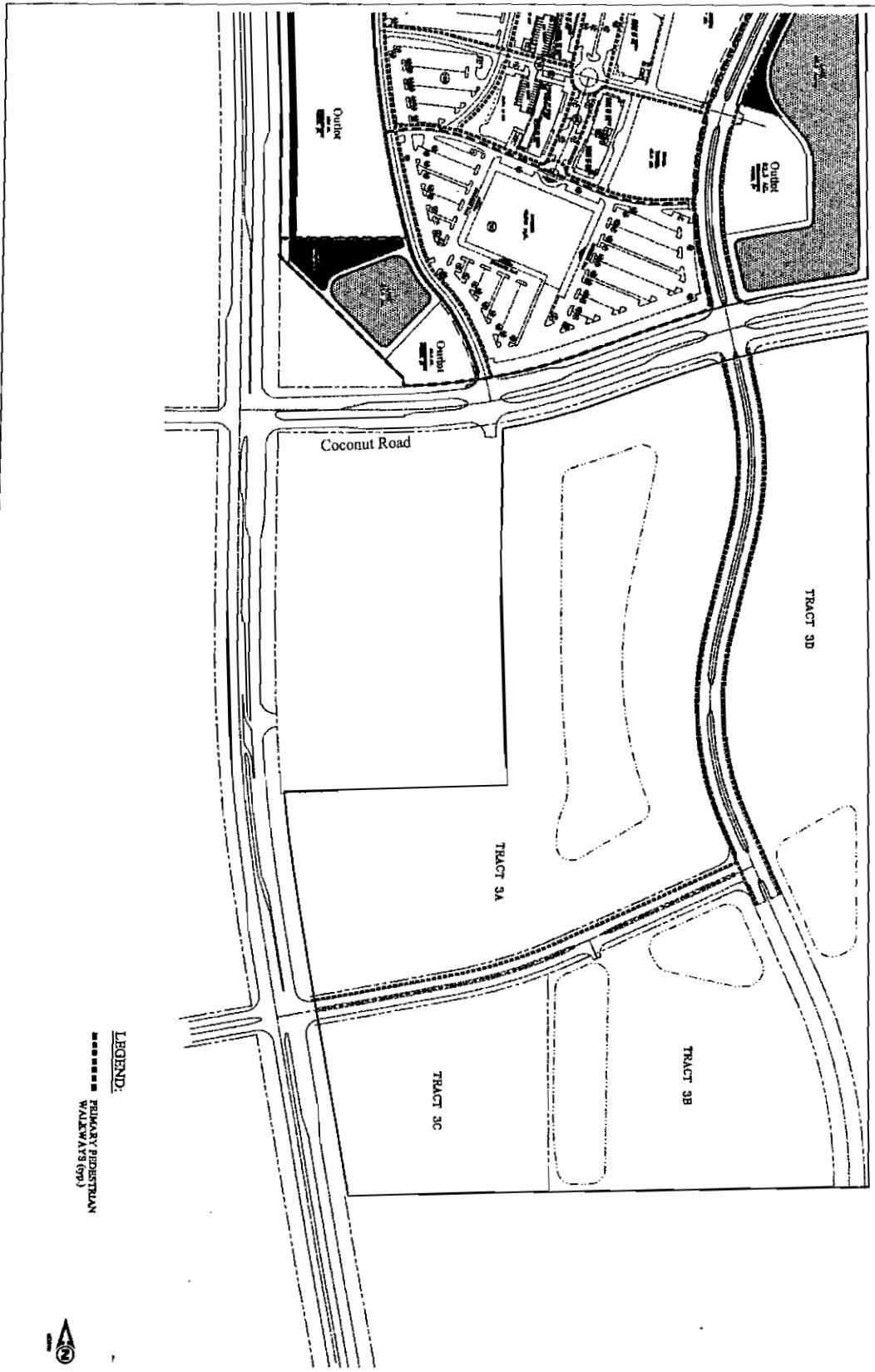


EXHIBIT F
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SIMONT
 The Shops at
 Coconut Point
 BONITA SPRINGS
 FLORIDA
 PRIMARY PEDESTRIAN
 WALKWAYS (99%)
 CIRCULATION PLAN
 03116D_PBD_CIRC PLAN 050904



LEGEND:
 ----- PRIMARY PEDESTRIAN WALKWAYS (PW)

SIMON
 115 W. PALM AVENUE
 SUITE 200
 BONITA SPRINGS, FL 34134
 (941) 389-1234

The Shops at
 Coconut Point
 BONITA SPRINGS
 FLORIDA

PROPOSED PEDESTRIAN
 CIRCULATION PLAN

DATE	DESCRIPTION	BY
01/11/03	ISSUED	JMB

(01/11/03) JMB CIRC PLAN (3/09/04)